

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF TEXAS

3 DALLAS DIVISION

4 HARRISON COMPANY LLC, §

5 Plaintiff, §

6 v. §

Civil Action No.

§ 3:19-CV-1057-B

7 A-Z WHOLESALERS, INC. and §

8 BARKAT G. ALI, §

9 Defendants. §

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16  
17 REMOTE VIDEOCONFERENCE

18 ORAL AND VIDEOTAPED DEPOSITION OF

19 AMAR ALI,

20 INDIVIDUALLY AND AS CORPORATE REPRESENTATIVE OF

21 A-Z WHOLESALERS, INC.

22 JANUARY 7, 2021  
23  
24  
25

1                   ORAL AND VIDEOTAPED DEPOSITION of AMAR ALI,  
2 produced as a witness at the instance of the  
3 Plaintiff, and duly sworn, was taken in the  
4 above-styled and numbered cause on the 7th day of  
5 January, 2021, from 10:14 a.m. to 7:03 p.m., before  
6 Kim M. Dickman, CSR in and for the State of Texas,  
7 reported by machine shorthand, at 616 Clariden Ranch  
8 Road, in the City of Southlake, County of Tarrant,  
9 State of Texas, pursuant to the Federal Rules of Civil  
10 Procedure, current Court orders related to the  
11 COVID-19 State of Disaster, and the provisions stated  
12 on the record.

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A P P E A R A N C E S

FOR THE PLAINTIFF:

Mr. David L. Swanson  
Mr. Joseph Anthony Unis, Jr.  
Ms. Anna K. Finger  
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FOR DEFENDANTS:

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ALSO PRESENT:

Mr. Wayne Rennke, Videographer

I N D E XWITNESSPAGE

AMAR ALI

EXAMINATION BY MS. FINGER

CORRECTIONS MADE BY WITNESS

SIGNATURE OF WITNESS

REPORTER'S CERTIFICATION

EXHIBITSIDENTIFIED

Exhibit 1 - Notice of 30(b)(6) Deposition  
of A-Z Wholesalers Inc.

Exhibit 2 - Credit Application

Exhibit 3 - Harrison Company, L.L.C., Terms  
or Conditions

Exhibit 4 - Imperial Invoice to A-Z Wholesale  
Dallas

Exhibit 6 - Defendant A-Z Wholesalers, Inc.'s  
Responses and Objections To  
Plaintiff's First Set of Discovery  
Requests

Exhibit 8 - Defendant A-Z Wholesalers, Inc  
Response to Plaintiff's Second Set  
of Discovery Requests

Exhibit 10 - 9-10-18 Imperial/Baquet letter to  
A-Z Wholesalers, Inc., Barkat G.  
Ali, Amar B. Ali

Exhibit 11 - E-mail string top e-mail being  
1-12-19 Amar Ali e-mail to Zazulak

Exhibit 12 - Wayne Baquet text messages

Exhibit 13 - 4-10-14 Wayne Baquet e-mail to  
Wayne Baquet

Exhibit 14 - Declaration of Amar B. Ali

I N D E X

Exhibit 18 - E-mail string top e-mail being  
12-22-14 Barkat e-mail to Thomas,  
Amar Ali

Exhibit 29 - 10-30-15 bradp e-mail to Amar Ali,  
barkat1950

Exhibit 31 - 6-15-18 Imperial/Prendergast e-mail  
to A-Z Wholesalers, Inc.

Exhibit 32 - 5-31-18 A/R Aged Trial Balance by  
Chain Number

Exhibit 33 - 3-15-19 Zazulak e-mail to Amar Ali

Exhibit 34 - Declaration of Sandy Zazulak

Exhibit 38 - Defendants' First Amended Answer  
To Plaintiff's Original Complaint

Exhibit 39 - Subpoena to Testify at a Deposition  
in a Civil Action To: Amar Ali

Exhibit 40 - Plaintiff's First Set of Discovery  
Requests to Defendant A-Z  
Wholesalers, Inc.

P R O C E E D I N G S

10:11:47

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THE VIDEOGRAPHER: Going on the record;

the time is 10:14 a.m. Today is Thursday, January

7th, 2021. This is the beginning of the

videoconference deposition of Amar Ali, individually

and as corporate rep of A-Z Wholesalers, Incorporated

in the case styled Harrison Company LLC versus A-Z

Wholesalers, Incorporated, et al.

This deposition is taking at 616 Clariden

Ranch Road, Southlake, Texas, 76092. The court

reporter is Kim Dickman. We're with Dickman

Davenport, 4228 North Central Expressway, Suite 101,

in Dallas, Texas.

The reporter will now make a brief

statement for the record and ask that all parties make

their appearances with their agreements, after which

she may swear in the witness.

THE REPORTER: My name is Kim Dickman,

Texas Certified Shorthand Reporter Number 2181. This

deposition is being held via videoconferencing

equipment. The witness and the reporter are not in

the same room. The witness has been sworn in remotely

pursuant to agreement of all parties.

The parties stipulate that the testimony

is being given as if the witness was sworn in person.

1 All parties please state their agreement  
2 on the record at this time.

10:15:59

3 MS. FINGER: My name is Anna Finger, at  
4 Locke Lord, and I represent the plaintiff, Harrison,  
5 in this law -- in this deposition.

6 MR. HOLMAN: Good morning. My name is  
7 Guy Holman with the law firm of Joyce Lindauer. I  
8 represent the defendant \*CKTP an Amar Ali, in his  
9 individual capacity and corporate capacity.

10 MR. UNIS: Joe Unis is also on the line  
11 for plaintiff, Harrison.

12 THE REPORTER: I think we lost Mr. Ali.

13 \*CKSPEAKER: There you go.

14 THE REPORTER: Can you hear me, Mr. Ali?

15 THE WITNESS: Yes, ma'am.

16 AMAR ALI,  
17 having been first duly sworn, testified as follows:

18 EXAMINATION

10:16:23

19 BY MS. FINGER:

20 Q. Mr. Ali, can you please state your full name  
21 for the record?

22 A. My name is Amar Barkat Ali.

23 Q. Mr. Ali, my name is Anna Finger and I  
24 represent Harrison in this lawsuit and in this  
25 deposition today, and moving forward, if I refer to

1 Harrison, will you understand that I'm referring to  
10:17:27 2 the plaintiff in this case, Harrison Company, LLC?

3 A. Yes.

4 Q. You are here to testify today on behalf of  
5 yourself individually as well as the defendant in this  
6 case, A-Z Wholesalers, Incorporated; is that right?

7 A. Yes.

8 Q. So moving forward, if I say A-Z in my  
9 questions, will you understand that I'm referring to  
10 the defendant A-Z Wholesalers, Incorporated?

11 A. Yes.

10:17:57 12 Q. Your lawyer is here, Mr. Ali; is that right?

13 A. Correct.

14 Q. Have you ever been deposed before?

15 A. Yes, I have.

16 Q. How many times?

17 A. It's hard to remember if I was being deposed  
18 or if I attended a deposition, but probably a couple  
19 of times as a person being deposed.

20 Q. And in those depositions that you were being  
21 deposed, were you a fact witness or a party to those  
22 lawsuits?

10:18:28 23 A. I believe I was in one of them a corporate  
24 representative for a party in the lawsuit and in the  
25 other I was a fact witness as an attorney for one of



1 the parties -- the parties, the plaintiffs in the  
2 lawsuit.

3 Q. And the first deposition that you mentioned,  
4 who was the party in the lawsuit that you were a  
5 corporate representative for?

10:18:59 6 A. I believe the party was Altona, Inc., that's  
7 A-L-T-O-N-A comma, Inc.

8 Q. What was your role with that company?

9 A. I'm the president and owner of that company.

10 Q. When did that deposition take place?

11 A. Whew, testing my memory here. So I want to  
10:19:28 12 say maybe four years ago, maybe a little less.

13 Q. What was the nature of the lawsuit?

14 A. It was an insurance claim that was filed by  
15 Altona, Inc. for some damage that had occurred on a  
16 property owned by Altona, Inc.

17 Q. And were they the plaintiff or the defendant  
18 in that case?

19 A. Altona, Inc. is the plaintiff in that case.

10:19:59 20 Q. Has the case since been resolved?

21 A. It went to trial and we got a jury verdict in  
22 favor of Altona, Inc.

23 Q. Are you still the president of Altona, Inc.?

24 A. Yes, ma'am.

25 Q. Are you also still the owner?

1 A. Yes, ma'am.

2 Q. Are you the sole owner?

3 A. Yes, ma'am.

4 Q. What does that company do?

10:20:26 5 A. It just owns real estate.

6 Q. Is all of the real estate that it owns in

7 Texas?

8 A. Yes, ma'am.

9 Q. What kind of real estate does it own?

10 A. Commercial real estate.

11 Q. Can you be more specific?

12 A. It owns a shopping center in Sherman, Texas.

13 Q. Is that its only property?

14 A. I'm sorry?

15 Q. Is that its only property that it owns?

16 A. Yes. It -- it's actually, I think three or  
10:20:58 17 four properties that are adjacent to each other that  
18 makes up the entire shopping center.

19 Q. You mentioned another deposition that you  
20 gave as a fact witness as the attorney for the  
21 plaintiff in a lawsuit; is that correct?

22 A. That's correct.

23 Q. Who was the plaintiff that you represented?

24 A. It was Barkat Ali and Neil Johnston, both  
10:21:26 25 acting in their derivative capacity for River Bend

1 Financial Corporation.

2 Q. You mentioned Mr. Barkat Ali, that's your  
3 father, correct?

4 A. Yes.

5 THE VIDEOGRAPHER: Anna --

6 MS. FINGER: It's me?

7 THE VIDEOGRAPHER: No, I'm so sorry. I  
8 think, Kim, that's something, there was some -- a  
9 chair going off on Guy's feed. I'm so sorry to do  
10 this on your record, but, Guy, if -- if we could maybe  
10:21:59 11 go on mute unless you anticipate an objection to one  
12 of these questions, I think it would really help Kim  
13 out.

14 MR. HOLMAN: That's fine.

10:22:30 15 THE VIDEOGRAPHER: Thank you.

16 Kim, you're still on mute.

17 THE REPORTER: Mr. Ali, you had said they  
18 were both acting in a derivative capacity?

19 THE WITNESS: That's correct.

20 THE REPORTER: Okay. That was the word I  
21 didn't hear. Thank you.

22 Q. (By Ms. Finger) My last question, Mr. Ali,  
23 was you mentioned Barkat Ali as a party in that case.  
24 He's your father; is that right?

25 A. That's correct.

1 Q. And he's also a defendant in this lawsuit?

2 A. Yes.

3 Q. You were present for his deposition in this  
4 case on Tuesday, correct?

5 A. I was.

6 Q. In this other lawsuit in which you were  
7 deposed, who was the defendant?

10:22:59 8 A. Shair Hakemy, that's spelled S-H-A-I-R; last  
9 name, Hakemy, H-A-K-E-M-Y.

10 Q. And the other party that you represented was  
11 Neil; is that right?

12 A. It's Neil Johnston, S-T-O-N, and Neil  
10:23:29 13 Johnston is the trustee of the trust that owns the  
14 shares in the River Bend Financial Corporation.

15 Q. Who else is a shareholder of that  
16 corporation?

17 A. In addition to Barkat Ali and the Johnston  
18 trust, the other shareholders are Mike Farhat, last  
10:23:54 19 name is spelled F-A-R-H-A-T, Sam Farhat, who is  
20 represented by I believe the executor of the estate,  
21 Layla Farhat, same spelling on the last name. Layla's  
22 first name is spelled L-A-Y-L-A.

10:24:25 23 There is Sam Srianant, last name is  
24 spelled S-R-I-A-N-A-N-T. There's Allen Miller,  
25 A-L-L-E-N, Miller, if you need the spelling, let me

10:24:56 1 know later, Shair Hakemy and Sabreena Hakemy, and her  
2 name is spelled S-A-B-R-E-E-N-A, Hakemy, same last  
3 name as Shair Hakemy.

4 Q. And what does River Bend do?

5 A. River Bend Financial Corporation is the  
6 holding company for a financial institution, a bank, a  
7 local community bank.

8 Q. You just listed all the shareholders for us.  
9 You don't have any interest in that corporation, do  
10:25:30 10 you?

11 A. I do not.

12 Q. What was the nature of that lawsuit?

13 A. It's a derivative lawsuit versus a minority  
14 shareholder regarding some conduct -- bad conduct by  
15 that minority shareholder.

16 Q. When was that lawsuit?

17 A. I believe the lawsuit was originally filed  
18 sometime in June of 2019.

10:25:59 19 Q. Where was it filed?

20 A. In Dallas County.

21 Q. Has it been resolved since?

22 A. No, but the plaintiffs in the case, Barkat  
23 Ali, Neil Johnston, were granted a temporary  
24 injunction by the 101st Judicial Court in Dallas.

25 Q. What is the injunction for?

1           A.    To prevent the minority shareholder from  
10:26:28 2 continuing to conduct rogue and bad acts.

3           Q.    We just talked about these two cases that you  
4 were deposed in. Are there any others that you  
5 remember where you've given a deposition?

6           A.    Not that I recall. There may have been a car  
7 accident when I was, you know, in high school that I  
8 may have been deposed on, but I don't really recall if  
9 I was or wasn't.

10          Q.    Okay. Have you ever taken a deposition  
11 before?

12          A.    I have not personally taken a deposition, but  
10:26:59 13 I've sat in as, you know, an associate during  
14 depositions. I've also sat in on depositions where,  
15 you know, parties were being -- parties that I  
16 represented were being deposed.

17          Q.    So you're rather familiar with the process,  
18 right?

19          A.    Yes.

20          Q.    I'm just going to go over a few rules even  
21 though you do have some experience and we've been  
10:27:28 22 doing a really good job so far. As you know, the  
23 court reporter is going to take down everything that  
24 you and I say, and especially with some of the  
25 feedback issues we've been having, it will be really

1 important that you and I let each other finish  
2 speaking before we start responding. So I ask that  
3 you let me finish my question before you start  
4 answering, and I'll also do my best to let you finish  
5 your answer before I ask my next question; is that  
6 fair?

7 A. That's fair.

10:27:54 8 Q. Also, we have Guy representing you today, is  
9 that correct, Mr. Holman?

10 A. That's correct.

11 Q. And he may unmute himself if he needs to  
12 object to any of my questions or to advise you on any  
13 privilege issues, and so all I ask is if you hear your  
14 lawyer start to object, you let him do so before you  
15 give your answer. Is that okay?

16 A. Yeah, my plan is since he's on mute to maybe  
17 give a few seconds for him to object if I feel like  
18 the question may be objectionable. So if I'm stalling  
10:28:28 19 on my answer, it's because I'm thinking maybe there  
20 will be an objection coming.

21 Q. Sure.

22 And you understand that even if --  
23 if Mr. Holman objects, unless he instructs you not to  
24 answer on a privilege issue, you do still have to  
25 answer the question after the objection. Do you

1 understand that?

2 A. I do understand that.

3 Q. And so also to help the court reporter, it's  
4 important that you give audible answers, so clear yes  
5 or no to yes or no questions and we need to avoid any  
6 head nods or head shakes and things like that. Do you

10:28:59 7 understand that?

8 A. (Witness nodding head.)

9 Q. Is that yes, sir?

10 A. Yeah. Yes.

11 Q. Thank you.

12 I tend to talk a little fast, and so I  
13 will say if I ask a question too quickly or unclearly,  
14 please do let me know. If I ask a question and you  
15 answer it, I'm going to assume that you understood  
16 what I say; is that fair?

17 A. That's fair enough.

10:29:29 18 Q. Do you understand that you're under oath  
19 today, Mr. Ali?

20 A. I do.

21 Q. And the oath that you're under in this  
22 deposition today is the same that you would be under  
23 as if you were testifying in a court, do you  
24 understand that?

25 A. Yes.



1 Q. Are you currently on any medication that  
2 might affect your ability to give true and accurate  
3 testimony today?

4 A. No.

5 Q. Are you under the influence of any other  
6 drugs that might affect your ability to give accurate  
7 testimony today?

8 A. No.

9 Q. Is there any other reason that you would not  
10:29:59 10 be able to give true and accurate testimony as you sit  
11 here today?

12 A. No, aside from the fact that there are lots  
13 of exhibits or production documents that have been  
14 produced, so I may be off on some dates or exact  
15 numbers, but I'll try to do my best to be as accurate  
16 as possible.

17 Q. And if you're not sure of an answer, please  
18 do tell me that you don't know, but in any event, you  
19 would be able to truly and accurately tell me that you  
10:30:29 20 don't recall or you don't remember an answer to my  
21 question, right?

22 A. Sure, and I'll -- I'll try to preface my  
23 responses by telling you either approximately or on or  
24 about and maybe try to direct you with some documents  
25 that might help refresh my memory.

1 Q. Sounds good.

2 If at any time throughout today's  
3 deposition you feel as though you misspoke previously  
4 in an answer or that you need to correct something  
5 that you said earlier, will you let me know?

6 A. I will.

10:31:02 7 Q. Have you personally ever filed a lawsuit  
8 before?

9 A. Can you clarify your question? So personally  
10 as in a party, like a party?

11 Q. Yes. In your individual capacity, so not  
12 necessarily on behalf of an entity, but in your  
13 individual capacity, have you ever filed a lawsuit as  
14 a plaintiff against a defendant?

10:31:29 15 A. I don't think I filed one, but I think I may  
16 have been a party to a lawsuit in my individual  
17 capacity.

18 Q. When you say you've been a party, do you mean  
19 you were a co-plaintiff or that you were a defendant?

20 A. I believe originally I was a defendant and  
21 then I became a counterplaintiff?

22 Q. Okay. So the lawsuit was originally filed  
23 against you, though; is that correct?

24 A. That is correct.

10:31:57 25 Can we just go on hold just for a second?

1 I need to plug in my laptop before we lose connection.  
2 Just a sec. We can stay on the record. I'm sorry, I  
3 should have done that when I first got here, but I  
4 didn't.

10:32:41 5 THE REPORTER: Mr. Holman, could I just  
6 ask, sir, if you're on mute?

7 MR. HOLMAN: I was on mute, yes.

8 THE REPORTER: Okay. All right. I  
9 thought -- I thought I heard something, but just  
10 wanted to take the chance to ask you while Mr. Ali is  
11 getting set up.

12 A. Okay, Ms. Finger, I'm good to go, I believe.

13 Q. (By Ms. Finger) Okay.

14 A. Yeah, it's plugged. Sorry about that.

10:32:58 15 Q. So we were just discussing a lawsuit in which  
16 you were personally named as a defendant; is that  
17 right?

18 A. Originally, yes.

19 Q. Who filed that lawsuit?

20 A. I believe it was an individual by the name of  
21 Moses Musallam and maybe Fanci Candy, Inc.

22 Q. Were you the only defendant?

23 A. Yes.

10:33:29 24 Q. When was that lawsuit filed?

25 A. Whew, I'd say probably seven years ago,

1 maybe.

2 Q. What were the allegations against you?

3 A. I really don't recall. I think it may have  
4 been like a breach of contract or something is -- is  
5 what they alleged.

10:33:59 6 Q. Has the case since been resolved?

7 A. Yes.

8 Q. How so?

9 A. It went to trial and I was awarded a -- a  
10 verdict by a jury in Tarrant County. The case was  
11 appealed, the case was upheld at the appellate court,  
12 it was then appealed to the Texas Supreme Court, and  
13 it actually got a hearing in front of the Texas  
10:34:29 14 Supreme Court. It was then remanded back down to the  
15 appellate court on an issue, ultimately got a final  
16 judgment on that probably three years ago ish, again,  
17 in -- in my favor.

18 Q. What were your counterclaims?

19 A. Breach of contract and I guess -- I think  
10:34:57 20 breach of contract was our major counterclaim.

21 Q. Were you awarded a monetary judgment?

22 A. Yes.

23 Q. How much?

24 A. I don't recall exactly how much that was.

25 Q. Is that the only lawsuit in which you were

1 named personally as a defendant?

10:35:28 2 A. I think so.

3 Q. There are no other lawsuits that you can  
4 remember in which you in your individual capacity were  
5 named as a defendant; is that right?

6 A. Not really, but I'm not sure.

7 Q. You don't recall any other lawsuits in which  
8 you were personally named as a defendant as you sit  
9 here today; is that right?

10 A. Yeah, I don't recall any that I'm personally  
10:36:01 11 named, but I'm not -- again, I'm not sure.

12 Q. Have you ever been part of litigation  
13 involving a company that you have an ownership  
14 interest in?

10:36:15 15 Other than the Altona lawsuit, there may  
16 have been one -- there may have been a -- a couple for  
17 a company called A-Z Wholesalers -- or A-Z Wholesale  
18 Wine & Spirits, LLC.

19 Q. You mentioned there were a couple lawsuits on  
20 behalf of A-Z Wholesale Wine & Spirits; is that right?

10:36:59 21 A. Correct.

22 Q. Do you recall when those lawsuits took place?

23 A. They probably took place sometime between  
24 2015 and 2018 or '19ish.

25 Q. You have an ownership interest in A-Z

1 Wholesale Wine & Spirits?

2 A. Yes, ma'am.

3 Q. Are you the sole owner?

10:37:30 4 A. Yes, ma'am.

5 Q. Is that entity at all affiliated, other than  
6 sharing common ownership with the defendant in this  
7 lawsuit?

8 A. No.

9 Q. A-Z Wholesale Wine & Spirits does not do any  
10 business with A-Z Wholesalers that is a party to this  
11 lawsuit; is that right?

10:37:55 12 A. No. A-Z Wholesalers -- A-Z Wholesale Wine &  
13 Spirits isn't an operat -- isn't a company that  
14 operates today, so it does not do any business with  
15 A-Z Wholesalers, Inc.

16 Q. When did it cease doing business?

17 A. I believe in October of 2018 and I think sort  
10:38:27 18 of the winding down probably another six months after  
19 that.

20 Q. Prior to October of 2018, did A-Z Wholesale  
21 Wine & Spirits do any business with A-Z Wholesalers,  
22 Inc.?

23 A. If they did, it was very nominal.

24 Q. What kind of nominal business would that have  
25 been?

1 A. Maybe bought some nonalcoholic beverages,  
10:38:56 2 like some sodas and waters.

3 Q. Going back to the lawsuit that A-Z Wholesale  
4 Wine & Spirits was involved in in approximately 2015,  
5 were they the plaintiff or the defendant?

6 A. So I want to make sure that I didn't misspeak  
7 or you didn't misunderstand. What I said was there  
8 were probably a couple of lawsuits, so more than one,  
10:39:27 9 from sometime between 2015 and 2018 or '19. I don't  
10 know if the lawsuits were filed in '15 and '16, '17,  
11 '18, or '19, but primarily the lawsuits that I recall  
12 that occurred in that company were breach of contract  
13 lawsuits that A-Z Wholesale would have filed against  
14 certain suppliers who we had distribution contracts  
15 with and breached those contracts, exclusive  
10:39:57 16 distribution contracts with.

17 Q. Do you remember the names of any of those  
18 suppliers that A-Z Wholesale Wine & Spirits filed  
19 lawsuits against?

20 A. I -- I wish I did, but I don't. Let me see  
21 if I can think of any. I can't really think of any.

10:40:27 22 Q. So you know for sure that A-Z Wholesale Wine  
23 & Spirits did file a few lawsuits between 2015 and  
24 2019 against suppliers, but you don't recall the names  
25 of those defendants; is that right?

1           A.    Correct, and -- and just to -- just so that  
2 my testimony is accurate, I don't know if the lawsuit  
3 was filed by A-Z Wine & Spirits or there was a lawsuit  
4 filed against the company and then we filed  
10:40:59 5 counterclaims. All I know is that they were involved  
6 in some lawsuits primarily related to breach of  
7 contract on exclusive distribution agreements.

8           Q.    Do you recall A-Z Wholesale Wine & Spirits  
9 definitely being a plaintiff in at least one lawsuit?

10          A.    Sure, yeah.

10:41:28 11          Q.    And you also recall A-Z Wholesale Wine &  
12 Spirits definitely being a defendant in at least one  
13 lawsuit; is that right?

14          A.    Sure.

15          Q.    But you don't recall how many lawsuits the  
16 entity was a plaintiff or a defendant?

17          A.    No. I mean, we -- we had dozens of suppliers  
18 over the years, so -- but it was a small number, you  
19 know, like I said, at least one, though probably not  
20 more than three or four.

10:41:56 21          Q.    Approximately how many suppliers did A-Z  
22 Wholesale Wine & Spirits have?

23          A.    I don't recall exactly over the years, but I  
24 would say couple dozen.

25          Q.    And of those approximately couple dozen



1 suppliers, A-Z Wholesale Wine & Spirits would have had  
2 distribution contracts with each of them?

3 A. That was sort of the standard operating  
4 procedure. There may have been an exception here or  
10:42:29 5 there, but primarily we didn't distribute products for  
6 a supplier without having a distribution agreement in  
7 place.

8 Q. You mentioned there might be a few  
9 exceptions. What would an exception be?

10 A. If we picked up a particular brand that --  
11 and to test it out in a market potentially to see how  
12 viable it would be before we entered into a more  
10:42:59 13 formal, long-term agreement.

14 Q. When you say "picked up a particular brand,"  
15 do you mean a particular product that you would have  
16 received from a supplier with whom you already had a  
17 contract?

18 A. No, not generally. I mean, if we -- if we  
19 had an agreement with a supplier and they introduced a  
10:43:27 20 new brand or wanted to introduce a new brand in the  
21 market, that brand would have been added onto the  
22 existing agreement as an additional brand, right?

23 I'm talking more about a -- a supplier  
24 that perhaps we don't have an exclusive distribution  
25 agreement with and they were either self-distributing

10:43:56 1 in the market and that's not really their cup of tea  
2 and so they asked us to help out with the  
3 distribution. We said we would, but we wanted to see  
4 if we could grow the brand before we got into a  
5 long-term arrangement with them. That's generally how  
6 that would work.

7 Q. So in that scenario where you would try to  
8 grow the brand first, you wouldn't enter into a formal  
9 distribution contract with that supplier?

10 A. Again, it was -- it -- it's such a small  
10:44:28 11 exception that I can't even think of a brand where we  
12 actually did something like that, and -- and we may  
13 have done it for a few weeks while everybody was kind  
14 of getting their ducks in a row.

15 And then the only other instance I can  
16 imagine where we distributed product for a supplier  
17 where we didn't have an exclusive distribution  
18 agreement is if the supplier had already sort of made  
19 the sale, right, and just needed the logistics to  
10:44:58 20 deliver the product. It's standard in that industry  
21 when you are dealing with alcoholic beverages, to --  
22 you have to have a distributor \*CKTP to go through  
23 your system, you have to have a distributor, and in  
24 order to sell the product, we would buy it from the  
25 supplier, deliver it to their customer, and have a

10:45:29

1 fixed, you know, a dollar, \$2, \$3 per case kind of  
2 profit, but there wasn't any sales effort or anything  
3 like that on -- on our part.

4 Q. So, generally speaking, you always had a  
5 written contract with your suppliers for A-Z Wholesale  
6 Wine & Spirits; is that right?

7 A. Generally speaking, because that industry is  
8 highly regulated. It's a three-tier system. You  
9 can't be licensed in more than one tier, right, so  
10 you're either a supplier, a distributor, or a  
11 retailer, and you deal with TABC.

10:45:59

12 And so there's a requirement to have an  
13 exclusive distribution agreement when it comes to like  
14 beer because it's county by county and with wine and  
15 spirits, we just felt like that was the right thing to  
16 do was to have an exclusive distribution agreement.  
17 Again, it's the alcohol distribution business, very  
18 different from obviously A-Z Wholesalers, Inc.

19 Q. How is it different?

10:46:30

20 A. Because it's -- A-Z Wholesalers, Inc. doesn't  
21 deal with alcohol and there's not a three-tiered  
22 system when it comes to convenience channel  
23 distribution.

24 MR. HOLMAN: Anna, I'm going to -- I'm  
25 going to have to object to this line of questioning.

1 We -- we're on A-Z Wine distribut -- distributor --  
2 distribution, which is only related to the defendant  
3 and Mr. Amar is here in his individual capacity and  
4 corporate capacity for A-Z Wholesalers. So can we get  
5 back on tract?

10:46:58

6 MS. FINGER: Correct, Mr. Holman, he is  
7 also here on his individual capacity, though, and I am  
8 asking about his ownership interest in this company,  
9 which was back and forth with lawsuits against breach  
10 of contract with similar distribution agreements to  
11 the one at issue here.

10:47:27

12 Q. (By Ms. Finger) So, Mr. Ali, I believe my  
13 last question was, how the industry is different  
14 between A-Z Wholesale Wine & Spirits and the defendant  
15 in this case?

16 A. Well, it's very different, and based on your  
17 response to Mr. Holman's objection, I think you -- you  
18 feel like there's some similarities, so let me help  
19 you kind of clarify that a little bit.

10:47:59

20 So in A-Z Wholesalers, Inc., there are no  
21 exclusive distribution agreements that we have with  
22 suppliers and we're not exclusive to buy from any  
23 particular supplier. We're also in the nonalcoholic  
24 space, A-Z Wholesalers, Inc. There is no requirement  
25 by law that we have an exclusive distribution

1 agreement, and we have the ability to buy from lots of  
2 different suppliers.

3 We deal primarily with candy, snacks,  
4 beverages, nonalcoholic, tobacco, those types of  
5 products, and so those companies are very, very  
10:48:27 6 distinct from each other.

7 Q. Although you don't have exclusive  
8 distribution agreements at A-Z Wholesalers, Inc., do  
9 you have other distribution agreements with suppliers?

10 A. What do you mean by other agreements?

11 Q. So, in general, if you're -- if A-Z  
12 Wholesalers, Inc. is working with a supplier, do they  
10:48:59 13 have a written distribution agreement even though it  
14 may not be an exclusive distribution agreement?

15 A. Generally, no.

16 Q. Why not?

17 A. Because it's not a requirement in the  
18 industry.

19 Q. If you don't have a written distribution  
20 agreement with a supplier, how do you know what the  
10:49:27 21 terms are of your informal distribution agreement with  
22 that supplier?

23 A. What terms are you talking about?

24 Q. Let me back up. What sort of terms might you  
25 need to agree with with a supplier for distribution of

1 their product; in other words, how do you know how  
2 much to pay or how to place an order or how orders  
3 will be delivered and so forth?

10:49:57 4 A. Those are all done by communication with the  
5 supplier.

6 Q. Does it change every time you communicate  
7 with a supplier?

8 A. Does what change?

9 Q. Any of those terms. So if you were to place  
10 an order today and then place another order next week,  
11 would you have some sort of expectation of how much a  
12 product would be or when it would be delivered, or did  
13 that change from one order to the next?

10:50:26 14 A. Well, it just depends on the supplier.

15 Q. Okay. Now, I want to circle back to that,  
16 but first I want to go back to the litigation that we  
17 were discussing.

18 Is there any other entity in which you  
19 have an ownership interest that was a plaintiff or a  
20 defendant in a lawsuit?

10:50:57 21 A. I can't really think of any off the top of my  
22 head.

23 Q. Where did you go to high school, Mr. Ali?

24 A. At Euless Trinity. It's a public school in  
25 the City of Euless in HEB ISD.

1 Q. When did you graduate?

10:51:27 2 A. 1996.

3 Q. What did you do after high school?

4 A. I went to college.

5 Q. Where did you go to college?

6 A. I went to Southern Methodist University in

7 Dallas.

8 Q. When did you first enroll at SMU?

9 A. In 1996, the fall semester.

10 Q. When did you graduate?

10:51:57 11 A. In 2000.

12 Q. What degree or degrees did you receive from

13 SMU when you graduated?

14 A. I believe I received a BA in sociology and I  
15 believe I also received a BA in philosophy, but I got  
16 to double-check that because I think I may have -- I  
17 may have been three hours short. I don't know if I  
18 took summer school to get it or not.

10:52:31 19 Q. Did you take any accounting courses while at  
20 SMU?

21 A. Not that I recall.

22 Q. Did you take any business courses while you  
23 were at SMU?

24 A. I'm sure I did.

25 Q. Do you remember what those courses were?

1 A. No.

10:52:58 2 Q. What did you do after college?

3 A. I went to law school. I took a little bit of  
4 time off and then I went to law school.

5 Q. How much time off did you take?

6 A. About a year, year and a half.

7 Q. And what did you do during that time?

8 A. I don't know. I just tried to figure out, I  
9 guess, what I wanted to do, really.

10 Q. Were you working at all?

10:53:29 11 A. I don't recall, but I'm sure I kept myself  
12 busy somehow.

13 Q. Where did you attend law school?

14 A. St. Mary's, San Antonio.

15 Q. And when did you first enroll?

16 A. Oh, I want to say it was 2002.

17 Q. When did you graduate from law school?

10:53:55 18 A. In 2005.

19 Q. And graduating from law school means that you  
20 have your juris doctorate degree; is that right?

21 A. That's correct.

22 Q. Am I right to assume that you took the bar  
23 exam after law school?

24 A. I did.

25 Q. When did you take it?



1           A.    I think I took it a couple of times.  I  
2    didn't take it immediately after graduating that  
10:54:28 3    summer.  I want to say the first time I took it was  
4    either the following summer or maybe the February bar  
5    in between the two summer bars.

6           Q.    Why did you wait to take it?

7           A.    I was -- I wasn't feeling well, number one.  
8    I had injured myself working out while studying for  
9    the bar that summer and I had to take medication that  
10:54:59 10   really prohibited me from being able to -- to study or  
11   sit, so I thought it was just a good idea not to force  
12   myself to do something when I wasn't feeling well.

13          Q.    You weren't working during that time, were  
14   you?

15          A.    No.

16          Q.    Are you currently a member of the Texas State  
17   Bar?

18          A.    I am.

19          Q.    Are you in good standing with the Texas State  
20   Bar?

10:55:29 21          A.    Yes.

22          Q.    Are you a member of any other state's bar?

23          A.    No.

24          Q.    You talked about high school, college, and  
25   law school.  Do you have any other education or

1 training?

2 A. Not formal, no.

3 Q. Do you have informal education or training?

10:55:59 4 A. School of hard knocks.

5 Q. Do you hold any other degrees or  
6 certificates?

7 A. Not that I recall.

8 Q. And other than your law license, do you hold  
9 any other professional licenses?

10 A. No.

11 Q. Were you working while you attended college  
12 at SMU?

10:56:32 13 A. Not that I recall.

14 Q. When was your first job?

15 A. My first job was, I think, in high school in  
16 between my junior and senior year. I was interning at  
10:56:56 17 a law office in Dallas, and then I believe the summer  
18 of my senior year I may have worked probably without  
19 pay at a convenience store to kind of learn the  
20 convenience store business.

21 And then I think after that, my first job  
22 really probably was coming out of law school, I worked  
23 at a firm in Fort Worth.

10:57:26 24 Q. What law firm was that?

25 A. Brown Pruitt.

1 Q. Were you an associate there?

2 A. Yes.

3 Q. What year did you start?

4 A. I think I started, whew, probably in 2006 and  
5 worked there not as an associate but someone who had  
10:57:59 6 graduated from law school, waiting to take the bar, so  
7 I worked there in that capacity and then -- and then  
8 stayed there for a while.

9 Q. How long did you work there?

10 A. Two years maybe, two or three years. It  
11 was probably about --

12 Q. What type of -- oop, go ahead.

10:58:26 13 A. I said probably about three years or so.

14 Q. What type of law did you practice while you  
15 were at the firm?

16 A. I primarily dealt with business transactions  
17 and some litigation work. I think as you probably  
18 know -- I don't know how your firm worked or -- or  
19 where you went to -- to work after law school, but it  
20 was a smaller firm and so I got an experience on some  
21 family law cases and, you know, just a -- a number of  
22 random areas of law, right, but primarily it was  
10:59:00 23 business transactions and litigation.

24 Q. Why did you leave the firm?

25 A. Because I went to go work at A-Z Wholesalers,

1 Inc.

2 Q. When was that?

10:59:27

3 A. It probably started sometime in late 2008 and  
4 at that time, I think I was still doing a little bit  
5 of both, right, so working at the firm half of the  
6 time and working at the distribution company half of  
7 the time, and then I think I formally transitioned  
8 full-time to A-Z Wholesalers, Inc. sometime very early  
10:59:55 9 in probably 2009.

10 Q. While you were working at the firm, did you  
11 ever represent a corporate client in forming a legal  
12 entity, such as a corporation or an LLC?

13 A. Yes.

14 Q. How many times would you say?

11:00:26

15 A. While working as a lawyer at the firm?

16 Q. Yes.

17 A. Whew, maybe three or four times.

18 Q. Do you have experience forming such legal  
19 entities not while working as a lawyer at that firm?

20 A. Yes, I mean, subsequent to -- to leaving the  
21 firm, I've been involved in various capacities in  
22 forming legal entities.

11:00:59

23 Q. And what do you mean by various capacities?

24 A. Either as an owner of a new entity that's  
25 being formed or, you know, perhaps assisting a -- a

1 friend or a family member put one together.

2 Q. And how many times would you say you've done  
3 it in that capacity as opposed to while working at the  
4 firm?

11:01:25 5 A. Maybe a dozen or so.

6 Q. While working at the firm, did you ever  
7 represent a client in a merger or an acquisition?

8 A. I don't recall if I did.

9 Q. Have you ever participated either formally as  
11:01:55 10 a lawyer or informally based on your ownership  
11 interests with other entities in a merger or  
12 acquisition?

13 A. Yes.

14 Q. How many times would you say?

15 A. Maybe half a dozen.

16 Q. Do you recall any of the companies that were  
17 involved?

11:02:18 18 A. Not offhand.

19 Q. When you started working for A-Z, what was  
20 your first title?

21 A. General counsel for sure because I earned it.  
22 I think that was probably my first title, but given  
11:02:59 23 that I started at the company probably full-time  
24 sometime early 2009, I think by then I was probably  
25 vice president and general counsel.

1 Q. And what were your general responsibilities  
2 as the general counsel when you first started at A-Z?

3 A. I mean, just kind of handling some of the  
11:03:30 4 legal affairs, regulatory affairs if there were any,  
5 with the company, dealing with customers, you know,  
6 just making sure that invoices have the appropriate  
7 disclaimers, disclosures, just kind of really trying  
8 to make sure that the company's operating with a clear  
11:03:57 9 understanding of what the rights and expectations are  
10 of both the company, its customers, and its suppliers.

11 Q. Can you tell me a little bit more about what  
12 A-Z is?

13 A. A-Z Wholesalers, Inc. is what I refer to as a  
14 convenience channel distributor. We sell Cokes and  
11:04:29 15 smokes, and so if you can imagine a convenience store,  
16 which I think everybody's had an opportunity to go  
17 into at some point, you know, you see a lot of  
18 packaged goods, right, candy, snacks, salty snacks,  
19 nonalcoholic beverages. Behind the counter there's  
20 generally some cigarettes and tobacco, some cigars,  
11:04:57 21 not premium cigars, but just your typical -- typical  
22 cigars. And so A-Z Wholesalers, Inc. is a convenience  
23 channel distributor where we buy those products from  
24 various suppliers and then deliver them to our  
25 customer, who is generally convenience store

1 operators.

2 Q. How many customers does A-Z have?

11:05:26 3 A. It's hard to tell. You know, you meet  
4 customers probably, you know, in a given year,  
5 probably around a thousand sort of unique customers,  
6 customers that shop with us at least once during  
7 that -- that year.

8 Q. Is a unique customer somehow different from  
9 another type of customer that A-Z would have?

11:05:59 10 A. No. I -- I refer to it as a unique customer  
11 because it -- it's a particular customer with a  
12 particular account number, particular, you know,  
13 tobacco permit, and so I classify each one of those as  
14 a unique customer.

11:06:29 15 Q. Does A-Z have written agreements with its  
16 customers?

17 A. Define what you mean by written agreement.

18 Q. Any kind of written agreement between A-Z and  
19 its customers, does A-Z enter any kind of written  
20 contract with its convenience store customers?

21 A. Generally what we have is we have a customer  
22 application, so if we're going to service a customer,  
11:06:58 23 we're going to have a customer application and then we  
24 usually get a copy of their driver's license, a copy  
25 of their tobacco permit, and that's generally about

1 it.

11:07:27

2 Q. And I know earlier we talked about A-Z Wine &  
3 Spirits, so now shifting to the defendant in this  
4 case, A-Z Wholesalers, I'm going to ask a similar  
5 question: Does A-Z Wholesalers have written  
6 agreements with its suppliers who it gets its product  
7 from?

8 A. Okay. I'm confused by the question.

9 Q. Sure, I'm sorry, I tried to give a preface to  
10 clarify, but I think it just made it more confusing.

11 A. Yeah, it did.

12 Q. So -- I'm sorry.

11:07:57

13 So does A-Z Wholesalers, the defendant in  
14 this lawsuit, have written agreements with its  
15 suppliers?

16 A. Generally, no.

17 Q. Does it have any sort of written application  
18 similar to with its customers?

11:08:26

19 A. Yes. So you'll have a -- you'll have an  
20 application in -- in many cases and with certain  
21 suppliers there may be certain agreements, but they're  
22 sort of annual agreements, sort of, hey, this is how  
23 much you bought last year, if you buy this much next  
24 year, you'll get a extra, you know, rebate or  
25 percentage, that sort of stuff, right, \*cktp pro



1 incentive, that sort of stuff, but that's about it.

11:09:00

2 Generally -- generally what governs the  
3 supplier-distributor relationship is the invoice,  
4 right? So you'll get a particular invoice from a  
5 particular supplier and it will state the terms  
6 associated with that transaction and that is the  
7 contract, right?

11:09:30

8 So, for example, if -- if you were a  
9 supplier and you invoiced me for this pen and you  
10 charged me 10 cents, you'd send me an invoice for 10  
11 cents and you would let me know when I have to pay you  
12 the 10 cents, and then I would turn around and sell  
13 this for 12 cents to my customer.

11:09:48

14 So to answer your question, I think the  
15 invoice is the contract.

16 Q. How does A-Z know how much the supplier will  
17 charge for a product before it receives the invoice?

11:10:25

18 A. Generally that's negotiated on the front end  
19 before the order is placed. With some suppliers, the  
20 pricing, once it's negotiated, stays static, doesn't  
21 change from order to order, and generally the only  
22 time that price will change is if the manufacturer,  
23 right, the actual producer of the product has a price  
24 increase and then that sort of just trickles  
25 downstream, and then everybody takes a price increase,

1 right?

11:10:58

2 Manufacturer goes up on their price, so  
3 if you bought this for 8 cents and you sold it to me  
4 for 10 and then I turn around and sold it -- sold it  
5 for 12, but then the next time I try to order Bic or  
6 Paper Mate let you -- they told you that, hey, they're  
7 going to charge you 10 cents for this, but now you  
8 can't sell it to me for 10 cents, so you'll charge me  
9 12. You'll let me know, say, hey, we're taking a

11:11:28

10 price increase on the pens, we're going up to 12  
11 cents, but then when we place our order, we're  
12 expecting 12 cents on our invoice and then we change  
13 our price in our system to our customer and that goes  
14 up to 14 cents, for example.

15 Q. Would you receive the invoice before or after  
16 you had received -- received delivery of the product?

11:11:59

17 A. Best practices are to receive the invoice no  
18 later than at the time you receive the product, so in  
19 some cases, we would get the invoices in advance via  
20 e-mail. Worst case scenario when the product is being  
21 delivered, there should be a hard copy of an invoice  
22 that the driver would bring with them.

23 Q. And you said earlier that that invoice that  
24 A-Z receives at the time of delivery is what would  
25 govern the relationship with the supplier on that

1 order; is that right?

2 A. Yes.

11:12:26 3 Q. So A-Z wouldn't know by what date it had to  
4 pay for that invoice until it received the invoice  
5 which stated the due date on it; is that right?

6 A. No, not really. So if we're buying from a  
7 particular supplier and we know that their terms are  
8 30 days, right, then if you sold this to me for 10  
9 cents and I know when I buy from your company, I get  
11:12:58 10 30 days, then it's anticipated that the invoice will  
11 also state 30 days, right, the terms, it will state 30  
12 days, but what I've noticed in the industry is you  
13 might have an agreement to, say, for example, you  
14 might have an agreement or an arrangement with a  
15 particular supplier where they tell you they're going  
16 to give you 30 days, but then someone in their  
17 accounting office didn't change it in their system and  
11:13:29 18 so every time you get the invoice, it says, you know,  
19 COD or 7 days or 14 days or 15 days, when in reality  
20 you have 30 days.

21 Q. So in that instance, the agreement that you  
22 made with the supplier prior to receiving the invoice  
23 is what would govern your due date for payment at A-Z;  
24 is that right?

11:13:56 25 A. What would govern is the due date that we had

1 agreed to, and if that due date is anything different  
2 than what's on the invoice, there's obviously a  
3 conversation about that at some point just to make  
4 sure that everybody's on the same page.

5 Q. So other than negotiating a price and also  
6 agreeing to the deadline on which an invoice is  
7 supposed to be paid, what other terms does A-Z agree  
11:14:27 8 to with its supplier before delivery?

9 A. Let's see. What other -- price, terms,  
10 payment terms. Sometimes you -- sometimes you deal  
11:14:55 11 with credit limits, right, so you might have a credit  
12 limit with a particular supplier. So, for example,  
13 with you, your credit limit might be a buck, at \$1  
14 which basically means I can buy 10 of these at a time,  
15 and even though you're giving me 30 days, right, if I  
16 want to buy 10 more of these and I sold them in a  
17 week, I'd either have to get you to up my credit limit  
11:15:25 18 or I'd have to do -- pay you in advance of the payment  
19 term, right, because I've exceeded my credit limit on  
20 my next order or I would exceed my credit limit, so  
21 that -- that might be something that we discuss.

22 And, again, it depends on each supplier.  
23 Every supplier is different, but that might be -- that  
24 might also be something that you negotiate with a  
25 particular supplier.

1 Q. And when you're negotiating these terms with  
2 the supplier before you receive the invoice, none of  
3 that is put in writing?

11:16:01

4 A. Generally, no. I mean, you know, some  
5 supplier put it in writing, some suppliers don't, and  
6 the relationship can ebb and flow, right, and so I  
7 don't know if everything is always memorialized in  
11:16:27 8 writing, right, oral agreements.

9 You know, even like the price, for  
10 example, some suppliers, the price changes because  
11 they buy from different people and so if they get it  
12 at a higher price, they sell to you at a higher price.  
13 And so if you order the product and you send a PO for  
14 a certain price, the supplier may call you and say,  
15 hey, my price has gone up or I bought it more  
16 expensive this time so I'm going to have to charge you  
11:16:57 17 50 cents more for it, and so that's never really  
18 memorialized, right, it just shows up on an invoice,  
19 it's 50 cents higher, the buyer gets a call from  
20 somebody at the office and says, hey, we got this for  
21 50 cents more, is that correct?

22 The buyer may be like, yeah, he told me  
23 it's coming more expensive, let's go ahead and raise  
24 our price by 55 cents so we can still make the kind of  
25 margin \*CkTP at the expense.

1 Q. Whose job is it at A-Z to remember and keep  
11:17:29 2 track of these unwritten terms for each supplier?

3 A. It depends on what department and what  
4 supplier.

5 Q. Let's stick to paying the invoices. So when  
6 an invoice comes in to A-Z, whose job is it to  
7 remember and keep track of the unwritten agreements  
8 beforehand in order to be able to determine whether,  
9 for instance, the deadline on the due -- on the  
11:17:59 10 invoice is accurate or not?

11 A. So there's -- there's folks in the accounting  
12 department, right, that sort of handle payables. They  
13 would know of what the due dates are for certain  
14 suppliers if they're different from what's on the  
15 invoice.

16 Q. How do they know?

17 A. Based on communication from either the buyer,  
11:18:27 18 right, the person actually negotiating that deal, or  
19 in talking directly with the accounts receivable  
20 department at the supplier's office, and in many  
21 cases, it can also be based off of instructions that  
22 they've received from myself. There are suppliers  
23 that I'm dealing with directly. So there's a number  
24 of ways that that's communicated.

11:18:59 25 Q. So there's no written record anywhere of

1 these agreed to terms for each supplier, all of the  
2 folks at A-Z sort of just keep it memorized; is that  
3 right?

11:19:26

4 A. No, I -- I didn't say that they all keep it  
5 memorized. I said that the accounts payable folks  
6 would be aware of what the payment terms are for a  
7 particular supplier. In most cases, it's what the  
8 invoice says, right? In those few instances -- or  
9 instances where a supplier has extended longer payment  
10 terms to A-Z based on the relationship, the volume,  
11 the history, the payment history, then, you know,  
12 those payment terms may have never changed in their  
13 system, but the accounts payable folks would know  
14 that, hey, the payment terms are not 15 days, it's 45  
15 days.

11:19:57

16 Q. How many warehouses does A-Z have?

11:20:26

17 A. A-Z Wholesalers, Inc. has two locations --

18 Q. What --

19 A. -- Dallas and Waco.

20 Q. How many employees are at each warehouse?

21 A. Yeah, I -- I would probably say about a  
22 handful, maybe five or so in Dallas and probably less  
23 than that in Waco.

11:20:56

24 Q. Does A-Z have a separate corporate office?

25 A. No.

1 Q. So all of the employees for A-Z work either  
2 in the Dallas or Waco warehouses; is that right?

3 A. Yes.

11:21:29 4 Q. What is your current title at A-Z?

5 A. President and I guess general counsel still,  
6 but president.

7 Q. Why did you phrase it as "I guess general  
8 counsel still"? Do you still do legal work for the  
9 entity, or no?

10 A. Sure.

11 Q. Frequently?

12 A. Define frequently.

11:21:57 13 Q. How often are you acting in your capacity as  
14 general counsel for the company?

15 A. You know, I think it's -- it's hard to  
16 distinguish, right? I feel like my role as president  
17 and my legal background lend me to -- to act in a  
18 general counsel capacity from time to time, but, you  
19 know, I think you being a trained lawyer, I think you  
20 understand that once you go to law school and you  
11:22:29 21 start practicing law, it just changes how you think,  
22 right? And even going and picking up groceries from  
23 Central Market, you can look at it as a legal  
24 transaction, right, and you can -- and you can look at  
25 the aisles and see advertising for, you know, certain



11:22:55

1 products and consider that a legal contract or a  
2 representation. So I think law school and practicing  
3 law really screws you up.

4 Q. I can appreciate that.

5 When -- there are some instances though  
6 where there might be a clear distinction, for  
7 instance, if you were going to sign a contract on  
8 behalf of the company, are you more likely to be doing  
9 so as the president and an officer on behalf of the  
10 company or as the general counsel with authorization  
11 from another officer?

11:23:28

12 A. Both. So I think the answer is both. I  
13 think I would review the documents, right, the  
14 contract as general counsel, right, and then hand it  
15 to myself as president to execute it, right, after  
16 reviewing it as general counsel.

17 Q. When did you become the president?

18 A. Oh, gosh, I want to say 2000 -- end of 2016,  
19 2017ish.

20 Q. Who was president before you?

11:23:56

21 A. My father, Barkat Ali.

22 Q. He was the first president of the company; is  
23 that right?

24 A. No. The company had formed prior to my dad's  
25 acquisition of the company.

1 Q. When was the company formed?

2 A. I think it was legally formed in 1999. It  
3 had been operating, I think, prior to that under  
11:24:25 4 either a sole proprietorship or something. Again, we  
5 weren't involved.

6 And then in 2002, it was acquired by my  
7 father and a couple of partners, and then in 2008, my  
8 father, I believe, bought out his -- his partners.

9 Q. When your father bought out his partners, he  
10 became the sole shareholder in the company; is that  
11 right?

11:24:59 12 A. Yeah. He was the sole shareholder of the  
13 company from, I think, November of 2008 until probably  
14 the end of 2016.

15 Q. And in 2016, you purchased your father's  
16 shareholders; is that right?

11:25:28 17 A. In 2017, I believe I acquired a -- an  
18 interest in the company, and I want to say either by  
19 the end of that year or the first day of 2018, I  
20 acquired whatever remaining interest he still owned.

21 Q. How much of an interest did you first  
22 acquire?

11:25:56 23 A. You're testing my memory. I want to say  
24 probably about 50 percent. Knowing that it was my  
25 father, I don't think I tried to get a majority

1 interest, I thought he would deal with me fairly, so  
2 probably 50 percent, but soon after that I think I'd  
3 acquired the remaining 50 percent.

4 Q. And you purchased that interest from him; is  
5 that right?

6 A. I'd have to double-check the records and see  
11:26:26 7 how that interest was acquired. I don't want to speak  
8 to that because I didn't -- I didn't do any research  
9 on that before the deposition.

10 Q. You didn't -- you don't recall whether you  
11 paid any certain amount of money to your father --

12 A. I --

13 Q. -- for his 50 percent interest?

14 A. I do not recall.

15 Q. What about when you bought the remaining  
16 interest from your father, when did you acquire that?

17 A. I want to say that was either late 2017 or  
18 2018.

11:27:01 19 Q. Do you recall whether you paid your father  
20 any certain amount for the remaining interest?

21 A. Same answer: I don't recall how that  
22 remaining interest was acquired, but I do know that it  
23 happened around 2017, 2018.

24 Q. Do you at least recall whether you paid any  
25 amount of money or whether your father just gave you

1 his shares?

11:27:29 2 A. I do not recall.

3 Q. As general counsel, is it part of your  
4 responsibilities to review contracts that A-Z enters?

5 A. Yes.

6 Q. And are you authorized to enter into  
7 contracts on behalf of A-Z?

8 A. Yes.

9 Q. Who else would be authorized at A-Z to enter  
11:28:00 10 into a contract on its behalf?

11 A. When? Excuse me.

12 Q. Let's start with currently. At this time,  
13 you are the president and general counsel, correct?

14 A. Yes.

15 Q. So who else besides you right now at A-Z has  
16 the authority to enter into a contract on behalf of  
17 the entity?

18 A. So if we're talking about a formal written  
11:28:29 19 agreement, other than an invoice that acts as the  
20 contract, no one else. And I'll -- I'll caveat that,  
21 unless a team member has received explicit instruction  
11:29:01 22 and authorization from me where I've granted them  
23 authority to execute an agreement that I've reviewed  
24 or approved and their authority would be limited to  
25 that particular agreement only. It wouldn't extend

1 beyond that.

2 Q. How often does that happen?

3 A. Not very often. I mean, it's one of those  
4 things where, for example, if I'm in the -- if I'm not  
5 in the office and they need a signature on something  
11:29:29 6 and I've reviewed it and I left it on my desk and  
7 didn't sign it, I may authorize somebody to execute it  
8 or just tell them to wait until I get there, you know.

9 Q. How about in 2011, you were vice president  
10 and general counsel at that time; is that right?

11 A. That's correct.

12 Q. Were you authorized to enter contracts on  
13 behalf of the entity at that time?

14 A. Yes.

15 Q. Who else would have had that authority at  
11:30:00 16 that time?

17 A. Barkat Ali as president of A-Z Wholesalers,  
18 Inc.

19 Q. Anyone else?

20 A. Whew, not that I can recall.

21 Q. And how about in 2015, at that time, you were  
22 still vice president and general counsel at A-Z; is  
23 that right?

24 A. Yes.

25 Q. So would anyone else besides Barkat have had

1 authority to enter contracts on behalf of A-Z?

11:30:27 2 A. Other than myself and Barkat?

3 Q. Right. Would anyone else have authority to  
4 enter into contracts on behalf of A-Z?

5 A. No, ma'am.

6 Q. Prior to becoming the president at A-Z, did  
7 you ever enter into a contract without first  
8 consulting Barkat?

11:31:03 9 A. Whew, prior to when?

10 Q. Prior to becoming the president. So, in  
11 other words, generally speaking, before you or any  
12 other representative at A-Z would enter into a  
13 contract, would Barkat review it first?

14 A. No.

15 Q. Why not?

16 A. Because I was authorized to enter into  
17 agreements as vice president and also serving as  
11:31:30 18 general coun -- counsel, it would be my job to review  
19 the contract. And so I would take a look at those  
20 documents and if I saw that those were good, then I  
21 had the capacity to enter into that agreement without  
22 seeking formal approval from them.

23 Q. So even though at that time you only had a 50  
11:31:58 24 percent interest, your father had given you express  
25 authority to enter into agreements on behalf of the

1 company without his approval?

2 MR. HOLMAN: Objection, form.

3 A. \*CKTP Yes.

4 Q. (By Ms. Finger) You can answer.

5 A. Yeah, so I -- good objection. Express

6 authority, are you talking about what that -- as far

7 as like the legal definition of express authority or

11:32:26 8 did I have authority to execute contracts on behalf of

9 A-Z Wholesalers?

10 And you'll have to define express

11 authority for me if you mean it in a legal context

12 because it's been a while since I think both of us

13 have taken the bar.

14 Q. Sure.

15 By express authority, I meant essentially

16 that Barkat told you that you could enter into

17 contracts on behalf of A-Z without first receiving his

18 approval; is that right?

11:32:59 19 A. Yes.

20 Q. When did he tell you that?

21 A. I don't recall exactly when I was told, but

22 I'm -- I'm fairly certain that that would have been

23 the case even prior to my acquisition of 50 percent

24 interest because I believe your question was about

11:33:28 25 when I acquired 50 percent interest, and I think my

1 testimony earlier was that I had the authority to  
2 execute documents on behalf of my corporate capacity  
3 as vice president and general counsel, which included  
4 the time that predated my acquisition of any interest  
5 in the company.

11:33:54 6 Q. So sometime even before you acquired an  
7 interest, so sometime between -- before, rather, 2017,  
8 Barkat told you that you could enter into contracts  
9 without his authority or his approval as the  
10 vice president and general counsel of A-Z; is that  
11 right?

12 MR. HOLMAN: Objection, form.

13 A. Correct.

14 Q. (By Ms. Finger) But you don't recall  
15 precisely when Barkat told you that; is that right?

16 A. No.

11:34:29 17 Q. How were you compensated for your work as the  
18 president of A-Z?

19 A. A good pat on the back and an attaboy and I  
20 was also paid a salary.

21 Q. What was your salary when you first started  
22 as vice president of A-Z?

23 A. I don't really recall.

24 Q. Did it change when you became the president?

25 A. I don't recall.



1 Q. How are you compensated for your work as the  
11:34:58 2 general counsel of A-Z?

3 A. Salary.

4 Q. Is that salary distinguished in any way from  
5 your salary as president?

6 A. No.

7 Q. So what is the total salary that you receive  
8 as president and general counsel of A-Z?

9 A. I don't know. Today, you're talking today?

10 Q. Yes.

11:35:27 11 A. I think it's probably 120,000 annually.

12 Q. Do you receive any other form of compensation  
13 for your responsibilities at A-Z?

14 A. It depends year to year.

15 Q. What other types of compensation might you  
16 receive?

17 A. I might receive a bonus, I might receive a --  
11:35:55 18 I guess a distribution or a dividend.

19 Q. Who determines whether or not you get a  
20 bonus?

21 A. Today?

22 Q. Yes.

23 A. I get the privilege of determining whether or  
24 not I get a bonus.

25 Q. And what factors go into that decision?

1           A.    I guess how I'm feeling that day, but, no,  
2 more -- more generally on whether or not, you know,  
3 the staff has gotten bonuses, whether it was a  
4 productive year, financially beneficial year, whether  
11:36:29 5 there was reinvestment in the company. There's a lot  
6 of things that go into that -- that consideration.

7           Q.    The staff of A-Z may or may not be entitled  
8 to a bonus at the end of the year as well; is that  
9 right?

10          A.    Sure.

11:36:55 11          Q.    Has that always been true at A-Z?

12          A.    Yeah. I mean, I don't think we have a -- a  
13 fixed sort of bonus, you know, program where, you  
14 know, everybody expects a bonus. It really just -- it  
15 depends year to year.

16          Q.    Do you recall if there was a year since 2011  
11:37:28 17 that the staff at A-Z was not paid any bonuses?

18          A.    Sure.

19          Q.    Do you recall what years those were?

20          A.    No.

21          Q.    Do you recall approximately how many times  
22 that happened since 2011?

23          A.    No.

24          Q.    And I phrased my question with the word  
25 staff, but by that I intended to include you as well.

11:37:58 1 So is there any year since 2011 in which you did not  
2 receive a bonus?

3 A. Yes.

4 Q. Do you recall how many times?

5 A. No.

6 Q. You don't recall what year or years that may  
7 have been, do you?

8 A. No, ma'am.

9 Q. Do you currently work anywhere else besides  
10 A-Z?

11 A. As a salaried employee, no.

11:38:29 12 Q. Do you work anywhere else besides A-Z as some  
13 other type of employee besides salaried?

14 A. No. I mean, I do some work for my real  
15 estate company, so I've got to, you know, drive back  
16 and forth to Sherman from time to time, so I consider  
17 that work, but as of -- I don't -- I don't believe I  
11:38:54 18 get compensated for that work or didn't. Things may  
19 change.

20 Q. The real estate -- I'm sorry, go ahead.

21 A. I said things may change.

22 Q. The real estate company you just mentioned,  
23 you have an ownership interest in that entity; is that  
24 right?

25 A. Yeah, that's the one we discussed earlier in

1 my deposition, Altona, Inc. owns that property in  
2 Sherman, Texas and I own that company 100 percent.

3 Q. Do you currently have an ownership interest  
4 in any other legal entities besides your real estate  
11:39:26 5 company and A-Z?

6 A. Not that I can think of. Oh, I have  
7 ownership interest in A-Z Wholesalers Wine -- Wine &  
8 Spirits, LLC.

9 Q. You told us about that one earlier, too,  
10 right?

11 A. That's right. That's really it, I think,  
12 that I can think of.

11:40:06 13 Q. What is Diamond Wholesale?

14 A. Diamond Wholesale is a company very similar  
15 to the defendant A-Z Wholesaler, Inc., convenience  
16 channel distributor, that's about it.

17 Q. Is that company still in operation today?

18 A. No.

11:40:30 19 Q. Did you have an ownership interest in it?

20 A. Yes.

21 Q. When did you acquire that interest?

22 A. In 2016.

23 Q. And when did the company cease operation?

11:40:58 24 A. I want to say sometime last year maybe. I --  
25 yeah, last year. I'd have to double-check.

1 Q. Did you hold any other role at Diamond  
2 Wholesale, other than being an owner?

3 A. President of the company.

4 Q. What is Top 20 Distribution?

5 A. Same thing. Convenience channel distributor.

6 Q. Is that entity still in operation today?

11:41:29 7 A. No, ma'am.

8 Q. Were you also an owner of that company?

9 A. Yes. Well, technically it was owned by  
10 Altona, Inc., the real estate company that I mentioned  
11 earlier, and I was and always have been the sole owner  
12 of Altona, Inc., so that would be a more accurate  
13 description.

14 Q. When did that company cease doing business?

11:42:01 15 A. A few years ago.

16 Q. Why?

17 A. It was essentially acquired by A-Z

11:42:45 18 Wholesalers, Inc.

19 Q. All right. Mr. Ali, we've been going for  
20 about an hour and a half. Are you good to keep going  
21 or do you want to take a break?

22 A. It's up to you. I could take a quick  
23 five-minute break and kind of stretch our legs, get  
24 some fresh air and come right back.

11:43:00 25 Q. Do you want to do that? I'm at a good

1 stopping point, so let's take five minutes and then we  
2 can pick back up.

3 THE VIDEOGRAPHER: Off --

4 A. Okay. Sounds good to me.

5 THE VIDEOGRAPHER: Off the record; the  
6 time is 11:43 a.m.

11:43:16 7 (Recess 11:43-12:01.)

8 THE VIDEOGRAPHER: Back on the record;  
9 the time is 12:01 p.m.

10 Q. (By Ms. Finger) Mr. Ali, we came back from a  
11 break. You understand that you're still under oath,  
12 right?

12:01:59 13 A. Yes.

14 (Exhibit No. 1 marked.)

15 Q. (By Ms. Finger) I'm going to show you what's  
16 been marked as Exhibit 1 to your deposition. Let me  
17 know when or if you see it.

18 A. I see it and I'm going to do something here  
12:02:28 19 so I can see it a little better. Let's see here.  
20 Okay. I am going to...

21 Q. Once we can see it clearly, please let me  
22 know if -- if you've ever seen this document before.

12:03:00 23 A. Okay. I can see it.

24 Q. And have you seen this document before?

25 A. I don't recall if I have. Hang on. I don't

12:03:28 1 recall if I have, but I've seen, probably like you  
2 have, lots of documents and filings in this case, but  
3 I can't recall if I have or have not seen it.

4 Q. Sure. So it says at the top here, Notice of  
5 30(b)(6) Deposition of A-Z Wholesalers Inc. Did I  
6 read that correctly?

7 A. Yep.

8 Q. And do you have any reason to believe this is  
9 not a true and correct copy of the Notice of  
10 Deposition of A-Z Wholesalers, Inc. that was served on  
11 counsel for A-Z?

12:04:00

12 A. I have no reason to believe that it's not a  
13 true and accurate copy.

14 Q. If you could, please turn to the third page  
15 of this document which is titled Exhibit A. It says  
16 page 1 at the bottom because it's page 1 of Exhibit A,  
17 but it's the third page of this document.

18 A. I'm there, I'm there.

12:04:29

19 Q. And do you see at the bottom of this page, it  
20 says A-Z Wholesalers, Inc. 30(b)(6) Deposition Topics?  
21 Did I read that correctly?

22 A. Yes, you did.

23 Q. Did you have a chance to review these  
24 deposition topics before your deposition?

25 A. Unfortunately I did not. I didn't go through

12:04:58

1 each one of those topics obviously because I don't  
2 recall seeing this document and did very little  
3 preparation for this deposition.

4 Q. Do you understand that you've been designated  
5 today to testify on behalf of A-Z as to these  
6 deposition topics?

7 A. Yes, I understand that.

8 Q. And since you are here testifying today, I  
9 assume that you are doing so with your consent to A-Z  
10 designating you as their corporate representative,  
11 right?

12 A. That is correct.

13 Q. Would you agree that you're the best person  
14 at A-Z to testify to these topics?

12:05:29

15 A. I'd like to think so.

16 (Exhibit No. 39 marked.)

12:05:59

17 Q. (By Ms. Finger) I'm now going to show you  
18 what has been marked as Exhibit 39. Let me know when  
19 you see it.

20 A. I see it. I see it. Do you want me to flip  
21 through all the pages or is there a certain page you  
22 want to direct me to?

23 Q. You don't have to flip through yet. We can  
24 stay on the first page and we'll go through some of it  
12:06:27 25 together. If you feel you need to review any other



1 portion of it before you answer a question, please  
2 just let me know.

3 A. Okay.

4 Q. Have you ever seen this document before?

5 A. Not that I recall.

6 Q. It says in the kind of top to center here,  
7 Subpoena to Testify at a Deposition in a Civil Action  
8 and it has your name underneath it, Amar Ali, to the  
9 care of your lawyers. Did I read that correctly?

10 A. That is correct.

11 Q. Do you have any reason to believe that this  
12 is not a true and accurate copy of the deposition  
12:06:59 13 subpoena that was served on your counsel?

14 A. I do not have any reason to believe that.

15 Q. And you understand that you're here to  
16 testify today pursuant to the Notice of Deposition  
17 that we just reviewed as corporate counsel, but also  
18 in your individual capacity pursuant to the subpoena?

19 A. As corporate representative? You said  
20 corporate counsel.

21 Q. Corporate representative, I apologize, yes.

12:07:29 22 A. That's all right. Yeah, I understand that,  
23 as corporate representative.

24 Q. And also in your individual capacity pursuant  
25 to this subpoena, correct?

1 A. Yes.

2 Q. And if you'll look halfway down the page,  
3 there's a little check box and next to it it says  
4 Production. Do you see that?

5 A. Yes, I see that check box.

6 Q. And it says, "You, or your representatives,  
12:07:58 7 must also bring with you to the deposition the  
8 following documents, electronically stored  
9 information, or objects, and must permit inspection,  
10 copying, testing, or sampling of the material," and  
11 next to that, it says, "See Attachment A."

12 Did I read that correctly?

13 A. You read that correctly.

14 Q. If you can flip to the fourth page of this  
15 document, it will be Attachment A, which again says  
12:08:27 16 page 1 at the bottom, but it should be the fourth page  
17 in this document.

18 A. Okay.

19 Q. Did you have a chance to review Attachment A  
20 before this deposition?

21 A. Specifically, I don't think I did. I don't  
22 recall reviewing it.

12:08:57 23 Q. If you could please turn to page 5 of  
24 Attachment A. It's the next-to-last page of the  
25 document. It says Documents To Be Produced at the

1 top.

2 A. On page 5, you said?

3 Q. Yes, of Attachment A.

4 A. What page is it in the entire document?

5 Q. Page 8.

12:09:26 6 A. 8, okay. Got it. Okay. I'm there.

7 Q. It says Documents To Be Produced at the top.

8 Do you see that?

9 A. Yes, ma'am.

10 Q. So do you understand that the subpoena also  
11 required you to produce any documents that are on this  
12 list to the extent that they were in your possession,  
13 custody, or control?

14 A. Yes.

15 Q. You didn't bring any documents with you to  
12:09:58 16 this deposition today, did you?

17 A. Did I -- that's a trick question. So --

18 Q. Let me rephrase.

19 Did you bring any documents with you to  
20 your deposition today to produce in response to the  
21 requests in this subpoena?

22 MR. HOLMAN: Objection. The documents  
23 have already been produced at -- at a prior time to  
24 the deposition.

25 MS. FINGER: I would like to get that

12:10:28 1 clarification from the witness, if that's all right  
2 with you, Mr. Holman, so that we have it on the  
3 record.

4 Q. (By Ms. Finger) So, Mr. Ali, I'll -- I'll  
5 restate my question.

6 Did you bring any documents with you to  
7 your deposition today to produce in response to these  
8 requests?

9 A. No. My -- my understanding is that there's  
10 been lots of production that's occurred in this case  
11 prior to my deposition and I will also state for the  
12:10:59 12 record that if there are any documents that somehow  
13 inadvertently have not been produced, but become, you  
14 know, part of the conversation during this deposition,  
15 then I would be glad to produce it to my counsel so  
16 that they could produce it to you.

17 I think -- I think you understand that  
18 there's lots of documents in this case because it goes  
12:11:24 19 back, you know, years, and so we try -- I tried to do  
20 my best even though I think everybody agrees that  
21 document production and discovery can be a very  
22 painful process, right, looking up e-mails and  
23 searching and all that sort of stuff, but I -- I  
24 really try to do my best to try to produce everything  
25 that we have that relates to these request for

1 production requests.

2 Q. We did receive a production from A-Z  
3 Wholesalers, the defendant in this case, as well as  
12:11:58 4 from Barkat Ali. What I want to clarify from you,  
5 Mr. Ali, is that you in your individual capacity do  
6 not have in your possession, custody, or control any  
7 other documents that have not already been produced by  
8 A-Z or Barkat; is that true?

9 A. I don't think I have any documents really in  
10 my individual capacity, right? I think any documents  
11 that I produced were produced in my corporate capacity  
12 on behalf of A-Z Wholesalers, Inc. and I've never  
12:12:28 13 acted in my individual capacity at A-Z Wholesalers,  
14 Inc. So, you know, I -- I can't -- I -- I'm not going  
15 to distinguish between whether I have it personally or  
16 have it under my corporate capacity. You know, I -- I  
17 act in my -- \*CKTP capacity.

18 Q. Let me clarify what I mean. You don't have  
19 any communications in a personal e-mail address or on  
20 a personal cell phone that relate to this case that  
12:12:58 21 you have not already produced on behalf of A-Z, do  
22 you?

23 A. Like I said, I've tried to produce everything  
24 that I could find in my corporate capacity, whether it  
25 was an e-mail that was sent to my corporate e-mail

1 address or if it was sent to some other e-mail  
12:13:25 2 address, which I doubt. So I -- I've tried to produce  
3 everything that I have available that's not only  
4 relevant to this case, but is responsive to the  
5 request for production.

6 Do I know for certain 100 percent that  
7 everything that I -- that I have in my corporate  
8 capacity has been produced? I don't think I could  
9 ever say that because there's just a lot and, like I  
10 said, in a search function when you're looking up for  
11 e-mails and trying to transfer them under a Dropbox so  
12:13:58 12 that you guys have the -- you know, the actual e-mail  
13 instead of like a -- a hard copy printout, you know,  
14 something could have gotten lost in that search  
15 function. Some things were probably produced multiple  
16 times. So I can't -- you know, I don't want to swear  
17 to the fact that everything's been produced because I  
18 can't -- I could never say that, ever.

19 Q. But to the best of your knowledge, you don't  
20 have -- you personally, not necessarily in your  
12:14:28 21 corporate account at A-Z, but because we're talking  
22 about the subpoena, to the best of your knowledge, you  
23 do not have in your possession, custody, or control  
24 any personal e-mails that relate to this case or  
25 personal text messages or other communications that

1 may be relevant that you did not already produce  
2 through A-Z's production in this case, is that true,  
3 to the best of your knowledge?

4 A. Yeah, I mean, to the best of my knowledge, I  
5 didn't act in my personal capacity, so I shouldn't  
6 have anything in my personal capacity. If those  
12:14:58 7 things -- if there's like a gray area there, I've  
8 tried to produce everything in my corporate capacity,  
9 which I would, I guess, also produce things if I had  
10 received them somehow in my personal capacity  
11 inadvertently in -- in --

12 Q. You still could have received something to a  
13 personal e-mail while acting in your corporate  
14 capacity though, right?

15 A. Sure, yeah, I mean, that's what I'm saying.  
16 I -- I wouldn't distinguish from that, right, so --

17 Q. Sure.

18 A. -- I tried to do my best to produce  
12:15:28 19 everything in my corporate capacity, don't really have  
20 anything in my individual capacity. If I have it in  
21 my individual capacity, then I would also have it in  
22 my corporate capacity. Does that kind of make sense?

23 Q. Yes.

24 So would you agree that everything  
25 produced on behalf of A-Z was also produced on behalf

1 of yourself?

12:15:58 2 A. I don't know if I could agree with that or  
3 not because I was producing everything based on my  
4 corporate capacity, but I don't think I have anything  
5 in my individual capacity, right?

6 Q. So there is no document that you would  
7 produce that would not also be produced by the  
8 corporation; is that right?

12:16:26 9 A. It should, yes. Like in -- in an ideal  
10 world, in theory, if I have something personally that  
11 somehow ended up in a personal Inbox and if I did the  
12 search function on that and it pulled up something  
13 related to any of the production requests, then that  
14 should have been produced in our corporate capacity.  
15 I don't think there was a -- a production dump of  
16 anything in my individual capacity.

17 Q. And that's because you didn't have anything  
18 to produce in your individual capacity; is that right?

19 A. I should not.

20 Q. Did you check?

12:16:57 21 A. Yeah, I mean, it was a painstaking process.  
22 I think you know how that goes, but we -- I looked,  
23 right, in my e-mails for communication between the  
24 various individuals or entities listed in -- in the  
25 production requests.



1 Q. So if I look at a document that has an A-Z  
2 Bates label on the bottom, I can also assume that that  
3 was produced on your behalf; is that right?

4 A. You'd have to ask my attorneys that. I don't  
5 know how they produced the -- the stuff. I just put  
12:17:27 6 them into a Dropbox and sent them to \*CKTP Lay, so...

7 Q. I will represent to you that all of the  
8 documents produced in this litigation by your  
9 attorneys bear a Bates label that begins with A-Z --

10 A. Okay.

11 Q. -- and were produced on behalf of the  
12 corporation. So the only clarification that I'm  
13 looking for is whether you have any separate documents  
14 that would be produced on your behalf, but not  
15 necessarily on behalf of the entity, or if there are  
16 any documents that were produced on behalf of the  
12:17:56 17 entity that not -- would not have also been produced  
18 by you.

19 A. I can't think --

20 Q. Would you be able to draw the line is what  
21 I'm looking for.

22 A. Sure. I can't think of anything in  
23 particular.

12:18:39 24 Q. Okay. Does A-Z own an interest in any other  
25 entity?

1 A. Does A-Z own any interest in any other  
2 entity? No.

3 Q. Does it own the warehouses that it operates  
12:18:58 4 or does it rent those?

5 A. It rents those.

6 Q. From who?

7 A. From the landlords of both of those  
8 properties.

9 Q. There are two separate landlords?

10 A. There are two separate landlords.

11 Q. Who are they?

12 A. Oh, boy. For the Dallas warehouse, it's  
12:19:25 13 Nelezer, Inc., that's N-E-L-E-Z-E-R, Inc.; and for the  
14 Waco one, gosh, I'd have to look and see exactly who  
15 the -- the entity is.

16 Q. Do you have an ownership interest in either  
17 of the landlord entities?

18 A. No, ma'am.

19 Q. Does your father?

12:19:59 20 A. He has ownership interest in the Dallas  
21 landlord entity, Nelezer, Inc.

22 Q. How much of an ownership interest?

23 A. He has a hundred percent ownership interest  
24 in that.

12:20:33 25 Q. Do you know how much in rent the Dallas

1 warehouse pays?

2 A. I'd have to double-check how much exactly the  
3 rent is for Dallas and for Waco, quite honestly.

4 Q. Do you have an approximation?

12:20:52 5 A. I do not.

6 (Exhibit No. 2 marked.)

7 Q. (By Ms. Finger) Showing you what's been  
8 marked as Exhibit 2 to your deposition. Let me know  
9 when you see it.

10 A. I see it.

11 Q. Have you seen this document before?

12 A. I have.

13 Q. What is it?

12:21:29 14 A. It is a Credit Application for Harrison,  
15 Super Regional Food Distributor.

16 Q. We can see at the top it's dated March 11th,  
17 2011; is that right?

18 A. That is correct.

19 Q. And in the Ship To and Bill To boxes also  
20 toward the top, it says A-Z Wholesalers, Inc. in both  
12:21:58 21 of those; is that right?

22 A. Yes, ma'am.

23 Q. If you'll turn to the second page of this  
12:22:30 24 exhibit, the top instructions ask to "Complete the  
25 following for each individual Proprietor, Partner,

1 Manager, Corporate Officer, and Shareholder," and  
2 Barkat is the only individual listed on this  
3 application; is that right?

12:23:03 4 A. That is correct.

5 Q. And next to his name it says President and  
6 CEO because he was the president and CEO as of March  
7 2011, right?

8 A. That is correct.

9 Q. And is that Barkat's signature all the way at  
10 the bottom of this page as the president?

12:23:24 11 A. It is.

12 MS. FINGER: Bear with me one second. I  
12:23:56 13 am missing an exhibit. I'm just waiting for this to  
14 upload. I was missing an exhibit.

15 Q. (By Ms. Finger) In the meantime, if you  
16 could turn back to page 1, please, Mr. Ali, and you'll  
17 see --

18 A. 2 or --

19 Q. No.

20 THE VIDEOGRAPHER: So, Anna, I think  
21 you'll need to share that document again.

22 MS. FINGER: Okay. Hang on. My new  
12:24:54 23 exhibit is ready anyway. Oh, no, it's not. Okay.  
24 All right.

25 (Exhibit No. 3 marked.)

1 Q. (By Ms. Finger) Showing you what has been  
2 marked as Exhibit 3, can you see that?

3 A. Yes.

4 Q. Have you seen this document before?

12:25:31 5 A. Give me a minute.

12:26:02 6 Yeah.

7 Q. What is it?

8 A. It is the Terms and Conditions -- Terms Or  
9 Conditions, excuse me, for Harrison Company, L.L.C.,  
10 which I believe was part of the Credit Application  
11 that you showed me on Exhibit 2.

12:26:29 12 Q. And Exhibits 2 and 3 are -- represent the  
13 credit agreement between Harrison and A-Z; is that  
14 right?

15 A. It's the Credit Application.

16 Q. Do you understand that page 3 lists the terms  
17 and conditions which represent the agreement between  
18 Harrison and A-Z?

19 A. It lists the terms and conditions associated  
12:26:55 20 with the Credit Application that was executed on March  
21 11th, 2011.

22 Q. Do you understand that Exhibit 3 lists the  
23 terms and conditions under which A-Z agreed to operate  
24 with Harrison pursuant to the credit that it was  
25 issued?

1 A. I don't know if I necessarily agree with  
2 that.

3 Q. Why not?

4 A. Well, it was the terms and conditions entered  
5 into as of March 11th, 2011.

12:27:29 6 Q. Correct. That's what I'm asking.

7 A. So as of -- yes, as of that date, the terms  
8 or conditions governing the -- the relationship are  
9 based on these terms and conditions.

10 Q. In fact, we can see on the bottom signature  
11 block this page is also dated March 11th, 2011, right?

12 A. Correct.

13 Q. And it was signed by Barkat Ali as president  
12:27:59 14 as well, right?

15 A. Correct.

16 Q. It lists as the sales representative in that  
17 signature block Rodney Thomas, do you see that?

18 A. Yes.

19 Q. Who is Rodney Thomas?

20 A. Rodney Thomas was the sales representative  
21 for Harrison Company and he was essentially the  
22 account representative for A-Z Wholesalers, Inc. on  
12:28:27 23 behalf of Harrison Company, LLC.

24 Q. Have you ever met him before?

25 A. I have.

1 Q. How many times?

2 A. I don't know, but I've -- I've met him  
3 several times.

4 Q. Do you remember the first time you met with  
5 Rodney?

6 A. The first time I met with Rodney was probably  
12:28:52 7 prior to the execution of this Credit Application.

8 Q. And how did this Credit Application and later  
9 terms and conditions agreement come about?

10 A. Rodney on behalf of Harrison Company, LLC was  
11 attempting to court our business, and when I -- when I  
12:29:28 12 say our business, he was trying to court A-Z  
13 Wholesalers, Inc., the defendant, to become a customer  
14 of Harrison Company, LLC.

15 Q. What do you mean by court?

16 A. He's -- he's a salesman, so he came in to try  
17 to sell us product, right, and at the time, we were  
18 probably buying -- in fact, I know we were buying  
12:29:58 19 product from a competitor of Harrison, and so Rodney  
20 was trying to come in and convince us to leave the  
21 competitor and come to them.

22 Q. Did you or A-Z have any relationship with  
23 Rodney or Harrison prior to when he came into the  
24 store or to the warehouses?

25 A. No, I don't think so.

12:30:29 1 Q. Were you the person that Rodney spoke to when  
2 he first came in to A-Z?

3 A. Yes.

4 Q. Do you remember what he said?

5 A. Not exactly, but the gist of it was, hey,  
6 where are you buying your product from, you know, your  
7 cigarettes from right now, how much are you paying,  
8 you know, we'd really like to have your business,  
9 we're coming into this market, and if you could tell  
12:30:58 10 us what your volume is and how much you're buying and  
11 how much you're paying, I'm sure we can offer you a  
12 better deal than you're -- who you're buying from  
13 right now.

14 Q. What did you do next after talking to Rodney?

15 A. I probably provided him with some  
16 information, some data that would help him assess how  
17 competitive Harrison Company could be if they wanted  
12:31:27 18 to earn our business, and more than likely we  
19 negotiated the pricing and the terms and what that  
20 relationship would look like.

21 Q. Was Barkat there for this conversation?

22 A. Nope. I think Barkat had stopped in at some  
12:31:58 23 point during this negotiation that probably took, you  
24 know, a couple different meetings, right, and I -- I  
25 probably just made an introduction and said, hey, this



1 is Rodney Thomas from Harrison Company, we're thinking  
2 about moving some of our business in their direction.  
3 So I just said, hi, hello, and that was it.

4 Q. How many meetings did you have with Rodney  
5 before A-Z filled out this Credit Application and  
6 signed the terms and conditions?

12:32:30 7 A. I don't know, but I would say it was  
8 definitely more than one.

9 Q. Do you have an estimate? Was it around the  
10 five or six range or the 20 to 25 range, can you  
11 say --

12 A. Definitely not -- definitely not the 20 to 25  
13 range. If we had to go back and forth 20 or 25 times,  
14 I would have \*CKTP locked it in. So it's, you know,  
15 maybe half a dozen or less.

16 Q. Did you meet with anyone else at Harrison or  
12:32:57 17 speak to anyone else at Harrison prior to A-Z filling  
18 out the Credit Application and signing the terms and  
19 conditions?

20 A. You know, I -- I don't know if I would have  
21 talked to anybody else at Harrison prior to, but  
22 Rodney may have called in some reinforcements to help  
12:33:26 23 get the deal closed, so maybe some of his superiors.

24 Q. Do you remember who they were?

12:33:48 25 A. I don't remember their names exactly. I can

1 tell you who they weren't.

2 Q. That's okay.

3 If we look all the way at the bottom of  
4 Exhibit 3, Barkat also signed these terms and  
5 conditions as the guarantor of this agreement; is that  
6 right?

7 A. That's correct, Barkat signed a personal  
12:34:25 8 guaranty with Harrison Company, LLC on March 11th,  
9 2011.

10 Q. Was Barkat present at all of these meetings  
11 that we just discussed with Rodney?

12 A. No, ma'am.

13 Q. Did you have an in-person meeting with Rodney  
14 and Barkat when this agreement was signed?

15 A. I don't think so.

16 Q. Do you recall how the signature transaction  
12:35:00 17 took place?

18 A. I don't recall exactly, so no.

19 Q. You had done most of the negotiating for this  
20 agreement, though, right?

21 A. I had done all the negotiation.

22 Q. And at this time, you were vice president and  
23 general counsel for A-Z, right?

24 A. That's correct.

25 Q. We talked earlier about how you would have

12:35:29 1 been authorized to enter into contracts on behalf of  
2 the company yourself, correct?

3 A. That is correct.

4 Q. Why then did you have Barkat sign this  
5 agreement as opposed to just signing it yourself?

12:35:53 6 A. Because Barkat was president at the time, he  
7 was the owner of the company at the time and so the  
8 personal guaranty would be his as owner of the  
9 company, and I believe that's what Harrison Company,  
10 LLC expected, that the president of the company and  
11 the owner of the company would be the one signing the  
12 personal guaranty.

12:36:28 13 Q. What about just the terms and conditions  
14 themselves, though, you could have agreed to that  
15 yourself, right?

16 A. Could I have agreed to them?

17 Q. You could have signed this document as to the  
18 terms and conditions even if not to the guaranty,  
19 couldn't you?

12:36:56 20 A. I -- I don't know. I -- you know, I don't --  
21 I don't know if that ever came up in our discussions.  
22 I think from the -- from the very get-go, I think they  
23 expected to have Barkat sign the credit agreement and  
24 the personal guaranty.

25 Q. And they expected him to sign the credit

1 agreement even though they were negotiating with you  
2 just because of the personal guaranty?

3 A. I don't know why they did that.

4 Q. Did someone at Harrison say that they  
5 preferred Barkat to sign the agreement?

6 A. I don't recall. It's such a long time ago  
7 that I don't recall exactly what was said regarding  
12:37:28 8 who's executing the agreement.

9 Q. Is this credit agreement still in effect?

10 A. No, it's not.

11 Q. Why not?

12 A. Well, for lots of reasons, but primarily  
13 because A-Z Wholesalers, Inc. doesn't do business with  
12:38:00 14 Harrison Company, LLC, hasn't for several years, does  
15 not owe Harrison Company, LLC any money based on any  
16 purchases from Harrison Company, and, you know, I'm  
17 not even sure, but I don't even know if Harrison  
12:38:26 18 Company even exists anymore, quite honestly.

19 Q. It's A-Z's position that this credit  
20 agreement between A-Z and Harrison was terminated,  
21 correct?

22 A. Yeah.

23 Q. When was the credit agreement terminated?

24 A. It terminated -- let me look here on my notes  
12:38:57 25 real quick.

1                   It -- it was terminated sometime in 2015.  
2                   The last -- the last purchase from Harrison was on  
12:39:20 3                   March 31st, 2015 and any \*CKTP any money that was owed  
4                   to A-Z Wholesalers, Inc. to Harrison Company, LLC  
5                   should have been paid off somewhere around June of  
6                   2015.

7                   Q.    You broke up a little bit there when you gave  
8                   the date. I heard -- you gave a specific date in  
9                   March. Could you just repeat that, please?

12:39:55 10                  A.    Yeah, I believe the last purchase that A-Z  
11                  Wholesalers, Inc., the defendant, made from Harrison  
12                  Company, I believe was March 31st, 2015, and any  
13                  balance that was owed as a result of any purchases  
12:40:21 14                  made between March 11th, 2011 and March 31st, 2015 by  
15                  A-Z Wholesalers, Inc. from Harrison Company, LLC, that  
16                  balance would have been paid off by A-Z to Harrison  
17                  Company probably sometime around June of 2015, maybe a  
18                  little bit after.

19                  Q.    Okay. I'm going to ask you a line of  
12:40:56 20                  questions and I just want to clarify that. I want to  
21                  focus specifically on this credit agreement.

22                                So I understand it's -- it's your  
23                                position that this agreement terminated in March of  
24                                2015 and then we're going to talk about Imperial a  
25                                little later, but for now, I want to focus only on

1 Harrison's relationship with A-Z while this credit  
2 agreement was in effect. Do you understand that?

3 A. I do.

12:41:30

4 Q. So did A-Z and Harrison ever agree to modify  
5 the credit agreement?

12:41:57

6 A. I would have to look at the credit agreement  
7 specifically, but I imagine if we were doing business  
8 with them for, call it four years, that there were --  
9 there probably was a modification of that which would  
10 have been a oral modification subsequent to us doing  
11 business at some point.

12 Q. Do you recall any specific modification or  
13 specific term that was altered between Harrison and  
14 A-Z?

15 A. Sure, I can imagine a few that probably would  
16 have been altered or modified.

17 Q. What are they?

12:42:29

18 A. I think the -- the first thing probably would  
19 have been the payment terms, and I can't recall  
20 exactly what we negotiated on March 11th, 2011, but my  
21 guess is that as a relationship developed and deepened  
22 and our volume went up with them, that our terms, our  
23 payment terms were probably extended.

12:42:56

24 I can't recall exactly if there was a  
25 credit limit that was set on March 11th, 2011, but my

1 guess is based on the volume and the growth, that that  
2 credit limit would have been increased. I don't  
3 recall exactly what pricing Rodney gave us for the  
4 various products that we were purchasing from  
5 Harrison, but I can imagine that over time that those  
12:43:30 6 prices were also renegotiated, discount, rebates,  
7 marketing, you know, if we were advertising something  
8 in particular that we were buying from them, you know,  
9 I probably went to them and say, hey, I need 20 cents  
10 off per carton for a month for two months on this  
11 particular brand. So there were constant  
12 modifications, I'm sure, regarding pricing.

13 I don't -- yeah, I'd have to look at the  
12:44:01 14 terms and condition specifically, but this is sort of  
15 a standard terms and condition that Harrison had  
16 probably mostly for like its convenience store  
17 customers, right, and we're a wholesaler, right, so  
18 our volume is very different from a convenience store  
19 versus the -- the wholesaler that -- that we are.

20 So I can imagine there being, you know,  
12:44:29 21 oral agreements and modifications as to our return  
22 policy for products that didn't sell or expired.  
23 Because we weren't direct with the manufacturer for  
24 the products that we were purchasing from Harrison and  
25 Harrison was direct with the manufacturer, we'd have

1 to return the product back to Harrison and Harrison  
2 would send it back to their manufacturer, and so how  
3 those credits and offsets.

4 The length of time, right, I -- I can  
12:44:57 5 imagine that A-Z Wholesalers, Inc. had a much longer  
6 leash from Harrison when it came to returning products  
7 versus probably that a convenience store that they do  
8 business with was required. So I can imagine that  
9 there were probably some -- some modifications to  
10 that.

11 So, you know, without going through each  
12 one of these line by line, I can imagine that this  
12:45:30 13 agreement was modified orally over the last three or  
14 four years of doing business with them.

15 Q. Have you ever seen another agreement between  
16 Harrison and any of its other customers?

17 A. I don't know if I have or not. I -- yeah --  
12:45:55 18 well, let me think here. I -- you know, I'd have to  
19 check, but you mentioned Top 20 Wholesale, I think Top  
20 20 Wholesale was at some point a customer of Harrison,  
21 and so I don't know if there was another agreement  
22 there or not. But, yeah, I -- I don't recall  
23 necessarily.

12:46:28 24 Q. You don't know, though, whether Harrison used  
25 the same terms and conditions with all of its



1 customers, do you?

2 A. I'm fairly certain that they did.

3 Q. Do you --

4 A. I -- I don't have any reason to believe -- I  
5 don't have any reason to believe that they used a  
6 different terms and condition with their other  
7 customers, with their -- with their retail customers.

8 Q. But you don't know whether they did, do you?

9 A. I have -- I have no reason to believe that  
12:46:54 10 they did, but I don't know for certain.

11 Q. No amendment or modification to this  
12 agreement was ever put into writing, was it?

13 A. Well, it depends what you mean by writing.  
14 You know, I think an e-mail potentially could be  
15 a -- a written modification, right?

16 Q. I'm referring to an executed agreement  
12:47:28 17 between the parties.

18 A. And -- and you're talking about something  
19 that was signed?

20 Q. Yes.

21 A. You know, I -- I don't recall if there was an  
22 amendment or modification that was executed between  
23 the parties.

24 Q. You're not aware of any separate written  
25 contracts that Harrison entered into with A-Z, right?

1           A.    I don't recall any specific written contract  
12:47:59 2   that was executed by both parties, Harrison and A-Z  
3   Wholesalers, Inc.

12:48:40 4           THE REPORTER:   Mr. Holman, I hate to  
5   interrupt, but I think I'm getting some feedback from  
6   you.   You keep popping up on my screen not lighting up  
7   and it's kind of distorting a little.   I don't know if  
8   you're on mute or not, but it might help.

9           MR. HOLMAN:    I'm back on mute.

10          THE REPORTER:   Thank you.

11          MR. HOLMAN:    I felt an objection coming  
12   there.

13          THE REPORTER:   Okay.   I -- I understand.

14          Q.    (By Ms. Finger)   When A-Z and Harrison first  
12:48:57 15   entered into the credit agreement, Harrison set up two  
16   separate account numbers for A-Z; is that right?

17          A.    Yes.

18          Q.    And it was one for the Dallas warehouse and  
19   one for the Waco warehouse; is that correct?

20          A.    That is correct.

21          Q.    When A-Z placed orders with Harrison, would  
22   separate orders be placed by A-Z Dallas and by A-Z  
23   Waco or was one order placed for both warehouses?

12:49:30 24          A.    The general practice was to send two separate  
25   orders.

1 Q. When did A-Z place its first order with  
2 Harrison?

12:49:49 3 A. Hmm, my guess is sometime in March of 2011.

4 Q. At that time, who was responsible for placing  
5 orders with Harrison?

6 A. At that time, I think I was responsible for  
7 placing those orders.

8 Q. What about in 2015, who was responsible for  
9 placing orders then before the credit agreement  
12:50:31 10 terminated?

11 A. I think even then I was responsible for  
12 placing the orders, but I did have obviously in 2011  
13 and in 2015 assistance from certain staff members to  
14 place those orders, right.

15 Q. Who else in 2015 would have been placing  
16 orders with Harrison?

17 A. So, you know, obviously the buck stopped with  
12:51:00 18 me as far as placing the orders, but I may have had  
19 one of my warehouse managers in Dallas assist me with  
20 that.

21 Q. What was the name of the warehouse manager in  
22 Dallas in early 2015?

12:51:29 23 A. Hmm, let me -- let me rephrase that. It may  
24 have been some -- it may have been the tobacco manager  
25 that had been -- that was placing -- that was

1 assisting me in placing the orders. And if the  
2 follow-up question is what is his or her name, I don't  
3 recall who would have been the tobacco manager in  
4 2015, or, for that matter, in 2011.

12:51:59 5 Q. Is that something you'd be able to look up at  
6 A-Z?

7 A. I'm sure if I did some digging, I could  
8 probably figure out who was the tobacco manager in '11  
9 versus who was the tobacco manager in '15, and I could  
10 also probably figure out who was assisting me in  
11 placing the orders in '11 versus who was helping me in  
12 '15, and it may be the same person, too.

13 Q. You were primarily responsible for placing  
12:52:29 14 the orders, though, right?

15 A. Yes.

16 Q. How would you place an order with Harrison?

17 A. Generally, gosh, I think -- it's -- it  
18 changed how we would place the orders. I mean,  
19 sometimes -- I'd have to go back and really do some  
20 digging, but my guess is generally the orders were  
12:53:01 21 e-mailed.

22 Q. Who would you send an e-mail to?

23 A. My guess is Rodney unless he had requested  
24 that someone else be copied on that.

25 Q. Were orders always placed by e-mailing Rodney

1 or another contact at Harrison?

12:53:26 2 A. Yeah, I believe -- I believe the orders were  
3 placed by e-mail because, you know, I recall a few  
4 times if we hadn't sent our e-mail to Rodney, I'd get  
5 a call and be like, hey, the deadline is coming up, we  
6 need your order so we can, you know, pull it, pick it,  
7 and ship it.

8 Q. Did you ever place orders over the phone?

12:53:56 9 A. I'm sure there were probably some times where  
10 we needed to add something to our order or the order  
11 that was sent was -- had an error on it or something  
12 got transcribed wrong and so we had to pick up the  
13 phone and be like, oh, wait, we meant 60 cartons  
14 instead of 6, right.

15 Q. Did you ever have a standing order that would  
16 be automatically processed after a certain time  
17 period, for instance, the same product might be  
18 ordered in the same quantity once a month

12:54:29 19 automatically unless you were to modify it? Did you  
20 ever place an order like that?

21 A. Not that I can recall.

22 Q. How often did A-Z place orders with Harrison?

23 A. I think that probably also changed. I don't  
24 know if, you know, when we first got started, we were  
25 placing orders once a week and then we went to twice a

1 week, but I can imagine that it was at least once a  
12:54:58 2 week, if not twice a week.

3 Q. In 2015, early 2015, would you say Harrison  
4 was still placing orders once to twice a week with  
5 Harrison?

6 A. A-Z was?

7 Q. I'm sorry, yes, A-Z was placing orders with  
8 Harrison?

9 A. Yes.

10 Q. Approximately how much product would A-Z  
11 order each time?

12:55:27 12 A. How would you like for me to define the  
13 product quantity?

14 Q. I guess in product quantity first, not  
15 necessarily dollar amount.

16 A. Sure.

17 Q. An approximation.

18 A. Yeah, hang on. Let me -- mind if I whip out  
19 my calculator?

20 Q. Sure.

12:55:58 21 A. And this is an approximation, all right --

22 Q. I understand.

23 A. -- because we're going back ten years.

12:56:26 24 I would say maybe like 7,000 cartons a  
25 week. That's not including snuff, which is like

1 your -- your -- like Copenhagen, Skoal. I'm just  
2 talking premium cigarettes -- or cigarettes. We  
12:56:58 3 bought some generic cigarettes from them as well.

4 Q. And what was the approximate dollar amount on  
5 your regular orders with Harrison?

6 A. Probably around 3, 350. You're talking about  
7 back in 2011?

8 Q. In 2011, yes.

9 A. I would say probably around 300 to 350,000  
12:57:30 10 per week.

11 Q. What about in 2015?

12 A. Maybe a little bit less. Maybe 250.

13 Q. Once A-Z placed an order with Harrison, what  
14 happened next?

15 A. Once A-Z places an order with Harrison, what  
16 happened next? Can you be a little more specific?

12:57:59 17 Q. How long until you received delivery of the  
18 Harrison product?

19 A. I would say three daysish.

20 Q. And those products were delivered to the  
21 respective A-Z warehouse from which they were ordered;  
22 is that right?

12:58:28 23 A. Can you rephrase that question?

24 Q. Sure.

25 So if A-Z Dallas ordered product from

1 Harrison, it would be delivered to A-Z's Dallas  
2 warehouse; is that right?

3 A. Yes.

4 Q. Were you there when the products were  
5 delivered?

6 A. Yes, generally. I was always there, so...

12:58:59

7 Q. Is that true only for the Dallas warehouse or  
8 have you also been present in the Waco warehouse when  
9 Harrison product was delivered?

10 A. You're assuming that the product for Waco was  
11 delivered to Waco, which I didn't say it was.

12 Q. I did. I'll go back.

13 So we asked that question already with  
14 respect to Dallas. So if A-Z Waco ordered product  
15 from Harrison, would it be delivered to the A-Z Waco  
16 warehouse?

17 A. No.

18 Q. Where would it be --

19 A. Generally -- generally no.

20 Q. Where would it be delivered?

12:59:28

21 A. It would be delivered to the A-Z Dallas  
22 warehouse.

23 Q. Why?

24 A. Because the practices that I had put in  
25 place, I preferred the premium cigarettes be received



1 in Dallas where I could physically set my eyes on it,  
2 get a count on the number of cartons, make sure there  
3 wasn't any shortages or any issues, and we would  
4 receive it for Waco and then put it on our own truck  
12:59:58 5 and send it to Waco.

6 Q. So you were there when most of the products  
7 were delivered for both Dallas and Waco orders; is  
8 that right?

9 A. Yeah, that's fair to say because I think  
10 generally the deliveries -- at least one of the  
11 deliveries would have been Monday morning.

12 Q. Who delivered the products?

13:00:23 13 A. Be a little more specific.

14 Q. Was the product delivered by Harrison, was it  
15 delivered by UPS, who delivered the products to A-Z?

16 A. From March 2 -- or from March 11th, 2011 to  
17 March 31st, 2015, in most cases, the delivery was done  
18 by Harrison Company on one of their large 18-wheeler  
13:00:59 19 trucks that pulled into the warehouse in Dallas on a  
20 Monday generally, but probably another day during the  
21 week as well, I can't recall. And every once in a  
22 while, I think if they had shorted us some product or  
23 screwed up our order somehow, maybe Rodney brought it  
24 by, right, just put it in his car, and whatever was  
13:01:24 25 missing, he'd -- he'd bring over really quick.

1 Q. Do you know any of the truck drivers that  
2 delivered product?

3 A. You know, I met several of them because it  
4 would take some while for us to -- to receive the  
5 product and count it, make sure it's accurate, and,  
6 you know, they didn't leave either until we got an  
7 exact count. I don't recall any specific names.

8 Q. Do you know who technically employed those  
9 truck drivers?

13:01:58 10 A. I believe those truck drivers from 2011 to  
11 2015, March to March, is the period that I'm  
12 testifying about right now, so I want to be really  
13 specific about that. I believe Harrison Company, LLC  
14 employed them.

15 Q. How do you know that?

16 A. Well, aside from their shirts that said  
17 Harrison Company on them and the truck that said  
13:02:28 18 Harrison Company on them and the invoice that they  
19 were handing us said Harrison Company on them, and  
20 probably just through conversations, right, I always  
21 like to kind of pick -- pick people's brain a little  
22 bit. If I could figure out how much they're getting  
23 paid, they get paid by the hour, do they get paid  
24 salary, you know, all that sort of stuff, I just -- I  
25 can learn more about how to operate my own business

1 that way.

13:03:00 2 Q. Do you recall having a conversation like that  
3 with a truck driver at Harrison?

4 A. Oh, I'm sure; not a specific conversation,  
5 but I'm sure I had those conversations several times  
6 with any driver that I would have seen from -- from  
7 Harrison or some of the other companies that I thought  
8 were running a -- a good -- good operation.

9 Q. You don't recall a specific conversation,  
10 though, in which you asked a Harrison truck driver who  
11 the entity was that technically employed him, do you?

13:03:29 12 A. I don't -- I don't think I ever asked that  
13 question specifically, no, but I had -- I had no  
14 reason to believe that it wasn't Harrison Company,  
15 right? You've got Harrison plastered everywhere, on  
16 your shirt, on your truck, on the invoice, on the bill  
17 of lading, on, you know, business cards or whatever,  
18 and so I thought a fair assumption would be is that  
19 they were employed by Harrison Company.

20 Q. You don't know who held the title to the  
13:03:58 21 delivery trucks, do you?

22 A. I did not do a title search on the delivery  
23 trucks that were coming to A-Z, no.

24 Q. You also do not know who the delivery trucks  
25 were registered to; is that right?

1           A.    I believe it was Harrison because, you know,  
2   when your -- Department of Transportation requires  
3   certain information on these types of trucks, right,  
4   so you have to have a Department of Transportation  
13:04:27 5   number, and those are usually illustrated on the doors  
6   of the trucks on both sides of the doors and then  
7   sometimes I believe also on the rear of the truck.  
8   And I don't recall exactly what it said, but I believe  
9   it would say something along the lines of, you know,  
10   Harrison Company or Harrison Super Regional  
11   Distributor and then underneath that it would have a  
13:04:59 12   Department of Transportation number, I believe.

13           Q.    You don't recall specifically seeing Harrison  
14   listed on one of those Department of Transportation  
15   stickers on any of the delivery trucks, though, do  
16   you?

17           A.    I mean, it would say Harrison and then it  
18   would say DOT number, but I didn't do a -- I didn't do  
19   a DOT search on every truck that came to see if that  
13:05:27 20   was registered to the Harrison Company, no, but a fair  
21   assumption is what I'm saying, you know, in that  
22   situation.

23           Q.    Who else at A-Z was present when you received  
24   delivery from Harrison?

25           A.    Everybody that worked there should have been

1 there except for Barkat.

2 Q. You testified earlier that there were, you  
3 know, only five or six employees in the Dallas  
13:05:59 4 warehouse. Was that always true?

5 A. No, that was not always true.

6 Q. Were there more or less?

7 A. More.

8 Q. When was that?

9 A. Between 2009 through probably 2000 --

13:06:26 10 probably the early part of 2019.

11 Q. So how many employees worked at A-Z from 2011  
12 to 2015?

13 A. I don't recall exactly, but it was more than  
14 five.

15 Q. But all of them should have been present when  
16 you received delivery from Harrison; is that true?

17 A. Sure, unless it was a salesperson who is  
13:06:58 18 supposed to be out doing sales calls at our customer  
19 stores, anybody that worked in the warehouse or worked  
20 for the company; other than that and other than  
21 Barkat, they would have been present.

22 Q. Can you tell me the names of the employees  
23 who also should have been present when you received  
24 product from Harrison?

25 A. Nah, I couldn't -- I can't recall any exact

1 names or last names or legal names.

2 Q. Is that something you could look up at A-Z?

13:07:29

3 A. Sure.

4 Q. Do you recall the last time you spoke to a  
5 Harrison delivery truck driver?

6 A. No.

13:08:07

7 Q. And you don't recall any of their names, do  
8 you?

9 A. No.

10 Q. Have you ever worked for the Department of  
11 Transportation?

12 A. No.

13 Q. So you mentioned earlier, you never did a  
14 title or registration search on any of the delivery  
15 trucks, did you?

16 A. Yeah, I never did that.

13:08:29

17 Q. Once a delivery was made by Harrison, was A-Z  
18 given any documentation by the Harrison delivery  
19 driver?

20 A. Yes.

21 Q. What were they given?

13:08:48

22 A. So generally we would get an invoice, right,  
23 I believe there would be a -- maybe another document,  
24 kind of like a ship list or a bill of lading,  
25 something along those lines. I'm trying to think if

13:09:28

1 there was anything else that we would get. If there  
2 was any damaged product or any returns that we were  
3 processing at that time, then we would probably get  
4 a -- another document that would identify the damaged  
5 product for either a future return or an immediate  
6 return right there and then.

13:09:57

7 And then if we were sending back product  
8 that had either expired or we had received damage that  
9 we didn't see at the time of receiving the product or  
10 there was something wrong with it, it was an old  
11 product or expired product or the wrong product, then,  
12 you know, we would probably schedule a -- a return.  
13 If the driver came and made a drop, we'd have our  
14 return ready to go, probably sent that information  
15 over to Rodney at Harrison saying, hey, we're  
16 returning such and such and then we get a credit memo  
17 later or something along those lines.

18 Q. So you received the invoice at the time of  
19 delivery; is that right?

20 A. Yes.

21 Q. Would you review the invoice as soon as you  
22 received it?

13:10:28

23 A. Yeah. I mean, I think that's -- that's one  
24 of the first things that we would do, right, first  
25 identify the number of cartons or quantity shipped,

1 right, and count the quantity that we have. Depending  
2 on how busy we were or like whether we needed to  
3 receive the product, we probably didn't go through  
4 each SKU while the driver was waiting, that could be a  
13:10:59 5 couple-hour process, right.

6 So we would at least look at the invoice,  
7 look at the quantity, make sure that that matched up  
8 with -- with what was shipped, and then we could  
9 always reassess it later because our relationship with  
10 Harrison was such that if they had sent us the wrong  
11 SKU, we could just tell them, hey, later, hey, we got  
12 the wrong SKU here, we'll just set that aside for the  
13 next truck and get us credit back on that one.

14 Q. From 2011 to 2015, the invoices that you  
13:11:30 15 would receive at time of delivery said Harrison on it;  
16 is that right?

17 A. Let's be specific. So let's say from March  
18 11th, 2011 until March 31st, 2015, the invoices stated  
13:11:53 19 Harrison Company on them, yes.

20 Q. You don't know where Harrison's warehouse was  
21 located that the product came from, do you?

22 A. I do.

23 Q. Where?

24 A. It's -- I think it was Bossier City, which is  
13:12:24 25 just west of Shreveport, if I'm not mistaken.



1 Q. Do you know the address?

2 A. I don't have the address memorized, but I  
3 have -- I have seen the facility. I've been there.

4 Q. When did you go there?

13:12:48 5 A. Oh, boy. I probably went there in 2011,  
6 probably in 2012, maybe again in '13.

7 Q. Why did you go there in 2011?

8 A. I believe that I -- I was invited to tour the  
9 facility and the warehouse to kind of see what goes on  
13:13:26 10 behind the curtain as they were pulling one of our  
11 orders and watch that process a little bit. Also I  
12 believe it was another sort of endeavor to continue to  
13 court A-Z Wholesale to remain a loyal customer of  
14 Harrison to see if there was ways that we could  
15 purchase more product from Harrison because their  
13:13:56 16 experience with us had been fairly good, our  
17 experience with them was fairly good, and so in any  
18 business relationship you're always trying to figure  
19 out a way where you can do a little more together,  
20 right, deep in the partnership, deep in the  
21 relationship.

22 Q. You didn't receive a tutorial on Harrison's  
23 accounting system when you visited the warehouse in  
24 2011, did you?

13:14:26 25 A. Did I receive a tutor -- define what you mean

1 by tutorial.

2 Q. Did anyone in Harrison's accounting  
3 department give you a walk-through of how Harrison's  
4 internal accounting system works while you were there  
5 in 2011?

6 A. Not -- no, not to that extent.

7 Q. What about in 2012?

8 A. Nothing like that to that extent.

9 Q. What about in 2013?

10 A. No, no one -- no one gave me an accounting  
11 tutorial on what -- how they handle their accounting.

13:14:59 12 Q. They've never done that, right?

13 A. Harrison has never given me a tutorial on  
14 their accounting system.

15 Q. What would you do with the invoice after you  
16 received it upon delivery?

13:15:25 17 A. We check each item line by line, SKU by SKU,  
18 make sure that the quantity matches up with what was  
19 delivered because the pricing for each SKU can vary,  
20 right, so we want to make sure because, let's say, for  
21 example, we counted 7,000 cartons, right?

22 THE WITNESS: You're allowed to be here.  
23 You can sit down if you want.

24 MR. BARKAT ALI: Oh, yeah.

25 THE WITNESS: That was my dad, by the

1 way, that was Barkat.

2 MR. BARKAT ALI: How are you?

3 A. And so let's say, for example, the driver  
13:15:57 4 made a delivery of 7,000 cartons, for example. We  
5 counted 7,000, it says 7,000 on the invoice, we signed  
6 off on it, no damage, no nothing, driver's off. Then  
7 we go through each invoice line by line, SKU by SKU to  
8 make sure that if we ordered 600 Marlboro Light  
9 cartons, box, that we got 600 cartons of those, right.

13:16:27 10 Q. (By Ms. Finger) Let me clarify, Mr. Ali.  
11 I -- I don't mean to cut you off, but I believe you --  
12 you told us a little bit about how thoroughly you  
13 check the invoice when you receive it.

14 What I meant by my question this time  
15 more specifically was, once you've done all that and  
16 you yourself have reviewed the invoice, where do you  
17 take it from there?

18 A. Where do I take what from there?

19 Q. The invoice.

20 A. Like physically where does it go?

21 Q. Yes. Do you give to it A-Z's accounting  
22 department or what happens next?

23 A. So once the product is received, right, which  
13:17:00 24 is the process we went through line by line, SKU by  
25 SKU, all that sort of stuff, and the product is

1 received into our system, right, so we -- it goes into  
2 our system, our inventory goes up by 7,000 SKUs, at  
3 that point, that invoice makes its way to accounts  
4 payable.

13:17:28 5 Q. Who is responsible for importing the  
6 information from the invoice into A-Z's system?

7 A. Various staff members.

8 Q. Can you tell me any of their names from March  
9 2011 to March 2015?

10 A. No. It's whoever was available that could  
11 just scan the stuff, it goes right into our system, we  
12 hit received, boom, done.

13:17:55 13 Q. Do you remember the names of who was in  
14 accounting at A-Z from March 2011 to March 2015?

15 A. No, not exactly. I mean, over the years  
16 we've had a lot of turnover in employees and stuff.

17 Q. From March 2012 to March 2015, who was  
18 responsible for maintaining the books and records at  
19 A-Z?

20 A. When you say books and records, can you be  
21 more specific?

22 Q. I mean the accounting books.

13:18:30 23 A. We have lots of sort of traunches for  
24 accounting, so we have accounts receivable, we have  
25 accounts payable, generally those two people are

1 separate. We have financials, right, those types of  
2 things, that's usually somebody that's separate,  
3 sometimes in-house, sometimes outside, and those  
4 duties or those -- that personnel has changed a lot  
13:18:58 5 over the last 12, 13 years since I've been there.

6 Q. Between March 2011 to March 2015, was A-Z  
7 using outside accountants?

8 A. For what task?

9 Q. For any task. Were they maintaining A-Z's  
10 accounting at that time?

11 A. I don't recall if they were, if we were using  
12 outside folks or in-house.

13:19:34 13 Q. Who was responsible for processing a Harrison  
14 invoice in A-Z's accounting system from March 2011 to  
15 March 2015?

16 A. Whoever was doing accounts payable at the  
17 time.

18 Q. Was there more than one person responsible  
19 for accounts payable at that time?

20 A. I don't recall. There may have been.

21 Q. You don't recall any of their names; is that  
22 right?

23 A. No.

13:20:09 24 Q. How did A-Z pay for the product it received  
25 from Harrison?

1 A. It depends.

2 Q. What were -- if there was more than one way,  
3 can you identify all of the ways A-Z may have paid  
13:20:28 4 Harrison at any given time?

5 A. The preferred payment method would have been  
6 by check. In the alternative, there may have been --  
7 we may have electronically pushed out funds, right,  
13:20:52 8 either by wire or ACH, EFT, whatever -- ETF -- EFT,  
9 but mostly by check.

10 Q. Who determined how payment was going to be  
11 made?

12 A. As far as?

13 Q. Whether it was going to be by wire or check?

14 A. That was generally my call, right.

15 Q. What would make you choose one or the other  
16 method?

17 A. Nothing in particular, really. Like I said,  
13:21:27 18 my preference was always to pay by check. If somehow  
19 inadvertently a check went for the wrong amount and we  
20 were -- we had shorted an invoice or shorted  
21 something, then I would ask the accounts payable  
22 department to send out an electronic payment so that  
23 we could get it there faster.

13:22:01 24 Q. Who were the checks made out to?

25 A. When? Are we still talking about the same

1 time period?

2 Q. Yes. I'll -- I'll --

3 A. Stipulate --

4 Q. -- let you know when we're going to shift  
5 gears, but we're still under the A-Z Harrison  
6 relationship, so my questions right now are still all  
7 referring to on that March 2011 to 2015 time period.  
8 So during that time, who \*CKTP effect --

9 A. During the -- during the Harrison  
13:22:26 10 relationship from March 11th, 2011 to March 31st,  
11 2015, the payments would have gone to Harrison  
12 Company, so they would have been made payable to  
13 Harrison Company, and I also believe probably  
14 subsequently maybe, there have been -- there may have  
15 been some payments that went to Harrison Company until  
16 the entire balance with Harrison Company was paid off.

13:22:56 17 THE VIDEOGRAPHER: Kim, were you able to  
18 get the full question?

19 I'm sorry, Kim. You're on mute. It  
20 looked like you were struggling with the question.

21 THE REPORTER: Yes, I was trying to stop  
22 near the end of the question.

23 MS. FINGER: I'm sorry, Kim.

24 THE REPORTER: That's all right.

25 (Requested portion read.)

1 A. \*CKTP Sorry.

2 Q. (By Ms. Finger) No worries. Let's just --  
3 we'll get that clearly on the record then.

4 So we're still talking about March 2011  
5 to 2015, during that time when A-Z paid for Harrison  
6 product, who were the checks made out to?

7 A. Harrison.

8 Q. Who was signing the checks?

13:24:01 9 A. Generally those checks were probably being  
10 signed by Barkat.

11 Q. Did you also have authority to sign the  
12 checks?

13 A. You betcha.

14 Q. Was there any reason a check would be signed  
15 by you versus Barkat?

16 A. Perhaps Barkat didn't make it into the office  
13:24:28 17 to sign the check by the time I wanted to have the  
18 check sent out, so I may jump in and sign them, but I  
19 try to reserve that responsibility for Barkat to give  
20 him something to do.

21 Q. How were the checks sent to Harrison?

22 A. Usually by, I think regular mail or, you  
23 know, by -- by some sort of mail service, FedEx, UPS.  
13:24:58 24 I didn't really get involved in that part too much,  
25 but I do know that it went by mail.



1 Q. Who was responsible for sending the mail?

2 A. Probably the accounts payable folks that were  
3 there that generally left a file of checks for Barkat  
4 to sign, and if he signed them and then handed the  
5 file right back, then they would just make  
13:25:26 6 arrangements to have it mailed out.

7 Q. Do you know the address that the checks were  
8 mailed to?

9 A. And we're still in the same time period?

10 Q. Correct.

11 A. I -- my -- my guess is, and, again, the --  
12 I'm sure -- I'm sure there's some sort of documentary  
13 evidence that will be better than my recollection. My  
14 guess is checks were being sent to Harrison Company at  
13:25:59 15 their Bossier City address, which would have been the  
16 address on the invoice as well.

17 Q. Do you have any reason to believe that the  
18 checks would have been mailed to anybody but Harrison  
19 at that time?

20 A. No.

21 Q. Once A-Z mailed its payment, you don't know  
22 what Harrison did to process that payment in its  
13:26:29 23 internal accounting system, do you?

24 A. Can you rephrase the question?

25 Q. Sure.

1                   Once A-Z mailed its payment, you don't  
2 have any personal knowledge as to what Harrison's  
3 accounting department may or may not have done with  
4 that check to process it in its internal accounting  
5 system, do you?

6           A.    I have some knowledge.

7           Q.    What knowledge did you have?

8           A.    Even -- even though I didn't get a tutorial  
9 when I was there, my understanding is that those  
10 payments would be deposited in the Harrison bank  
13:26:58 11 account and those payments would be applied in their  
12 system against our accounts so that the balance would  
13 be reduced and so that the balance would be reflective  
14 of the payments.

15          Q.    How do you know how Harrison's internal  
16 accounting department applied those payments?

13:27:29 17          A.    Because when we sent a payment to, for  
18 example, to Harrison, our balance would go down. If  
19 we bought stuff from Harrison, our balance would go up  
20 and so that number was constantly changing, right.  
21 Payments were being issued regularly, product was  
22 coming regularly, so it's constantly like up and down,  
23 up and down.

24          Q.    So you know the payments would have been  
25 applied to the total balance, but you don't know what

13:27:58 1 payments were necessarily applied to any given  
2 invoice, do you?

3 A. Oh, yeah, no, I do.

4 Q. How do you know that?

5 A. Because it's -- what do they call it, is it  
6 FIFO? Are you familiar with FIFO?

7 Q. No.

8 A. First in first out.

9 Q. You understand that -- and, again, I'm not  
10 necessarily asking how it may have supposed to have  
13:28:29 11 been done or what your understanding is of generally  
12 how accounting should work, but specifically at  
13 Harrison.

14 A. No, I -- I'm familiar with it. I mean, we  
15 did a -- we did nearly a hundred million dollars'  
16 worth of business.

17 Q. So you saw Harrison's internal accounting  
18 system demonstrating that payments were always applied  
19 to --

20 A. Yeah, so --

21 Q. -- a particular invoice; is that right?

22 A. Yeah, so let me -- let me walk you through  
23 this. So we get a particular invoice, right, let's  
13:28:58 24 say it's for 60 grand or something or -- or whatever.  
25 We would send out a check for \$60,000 for that

1 particular invoice, right?

2 Q. Sometimes A-Z paid less than its balance  
3 though; isn't that true?

13:29:27

4 A. So I'll give you an example where I think  
5 this might help you. Let's say, for example, we got a  
6 order for \$300,000, right? Then in order to pay that  
7 invoice, we might make five separate checks for 60,000  
8 apiece, right, one on Monday, one on Tuesday, one on  
9 Wednesday, one on Thursday, one on Friday, so when we  
10 mailed out the checks to Harrison in Bossier City, we  
11 would send them five checks that would be dated

13:29:58

12 Monday, Tuesday, Wednesday, Thursday, Friday, and it  
13 would be referencing -- generally should be  
14 referencing the invoice that it's paying off, and so  
15 we were paying -- we were paying off the oldest  
16 invoice first, right, first in first out, right, and  
17 that also helped Harrison with their aged receivables,  
18 right, so that way the receivables for those oldest  
19 invoices didn't find themselves in a bucket that's 120  
20 days, 180 days, 190 days out, right, it stayed within  
21 the terms that we had agreed to with the Harrison.

13:30:29

22 Does that help?

23 Q. Is it your testimony, Mr. Ali, though, that  
24 A-Z never fell behind on payments that it owed to  
25 Harrison?

13:30:59 1 A. Not really. I mean, I think as -- as our  
2 relationship with Harrison grew, our volume was also  
3 growing, our credit limit went up, and so we -- you  
4 know, we generally tried to stay on track with them,  
5 and they were -- you know, they were working with us  
6 as well, right, because we were buying a lot of

13:31:25 7 product from them. I mean, you know.

8 Q. But A-Z did fall behind on payment to  
9 Harrison, didn't it?

10 A. No.

11 Q. What is your basis for that?

12 A. Because our last purchase with Harrison was  
13 in March of 2015, at the end of March 2015, and my  
14 guess is within eight to ten weeks, whatever balance  
13:31:58 15 remained as of the last delivery was paid off to  
16 Harrison within that eight- to ten-week period, which  
17 is kind of where our terms ended up.

18 Q. I understand that it was A-Z's intent that  
13:32:24 19 payments were being applied to the oldest invoice;  
20 however, did you personally look into Harrison's  
21 accounting system and see how all of those payments  
22 were being applied?

23 A. I didn't look into their accounting system,  
24 but I spoke to people in their accounting department.  
25 I think their former CFO, Brad Albritton, we had

1 talked a lot, and it was always first in first out.

13:32:59 2 Q. What else did Brad tell you about Harrison's  
3 internal accounting system?

4 A. Just the same thing about, you know, we want  
5 to get the oldest invoices taken care of first, that  
6 way the aged receivables doesn't go too far because  
7 they've got a line of credit and they've got to show  
8 the bank what their accounts receivable is. If you  
9 get something into the 120-, 180-day bucket, they  
10 probably don't get a line of credit on that.

13:33:30 11 I think we had discussions about making  
12 sure that if we're going to split up payments on a  
13 particular invoice, so let's say, for example, the  
14 \$300,000 invoic -- let's say it was a 300,001 dollar  
15 invoice, don't make five payments of \$60,000 because  
16 it still leaves a \$1 balance left. Make the last  
17 payment \$60,001, so that way that invoice is cleared  
18 and it's completely done, right.

13:33:59 19 And I preferred that, too, actually  
20 because we could keep track of the invoices that had  
21 moved out and the new invoices that we've gotten over  
22 the last eight to ten weeks. We just pick up the  
23 oldest one first, pay those, receive a new delivery,  
24 and ten weeks later, we'll get to that invoice and  
25 we'll pay that one.

1 Does that kind of make sense?

2 Q. Yes.

13:34:35

3 A-Z sometimes made payments that were  
4 returned for nonsufficient funds; is that right?

5 A. I'm sure over the last, you know, five years  
6 or whatever, the four years that we were doing  
7 business with Harrison, there may have been some  
8 checks that were returned NSF, but I -- if it -- if  
13:34:56 9 that ever occurred, we cured that immediately.

10 Q. It's your testimony that A-Z paid off its  
11 balance with Harrison in full; is that right?

12 A. Yes, ma'am.

13 Q. And it's A-Z's and your position that A-Z  
14 does not owe any money to Harrison under the terms of  
15 this credit agreement, that's right?

16 A. Zero dollars owed to Harrison under the  
13:35:17 17 credit agreement or owed to Harrison Company, LLC.

18 And I think the -- I think the invoices,  
19 right, the -- the relevant period, because we haven't  
20 discussed it, I'm sure you'll get there, maybe after  
21 lunch, but the relevant period is for invoices from  
22 October 22nd, 2018 to March 4th, 2019. Those are all  
23 material invoices.

13:35:57 24 Q. We'll talk about that time period, Mr. Ali.

25 A. Okay. I just wanted to make sure we got

1 there because I don't know if we got a chance to go  
2 over that with -- with my dad's testimony the other  
3 day.

4 Q. Sure.

5 So it's your position that to any extent  
6 any balance is owed, it would be due to Imperial; is  
7 that right?

8 A. That's correct.

9 Q. When was the credit agreement with Harrison  
10 terminated?

11 A. It would have terminated after the balance  
12 was paid, like I said, somewhere between eight to ten  
13:36:27 13 weeks after the last delivery on March 31st, 2015, so  
14 without giving you an exact date, which I'm sure if we  
15 took some time, we could probably do and if we end up  
16 at trial, I'll be prepared for this, but I'll probably  
17 be able to tell you exactly which day the last invoice  
18 with Harrison was paid and the balance was zero with  
19 Harrison.

20 Q. How was the credit agreement terminated?

21 A. It naturally terminated because we didn't buy  
13:36:57 22 any more product from -- from Harrison, right. It's  
23 not a -- it's not a credit agreement in perpetuity,  
24 right? It's a credit agreement as long as we're doing  
25 business with you. If we're not doing business with



13:37:25

1 you, then that credit agreement no longer exists. And  
2 if both parties have performed, which is they  
3 delivered and we paid and we paid in full the amount  
4 that was owed sometime by June or July of 2015, then  
5 that credit agreement and the personal guaranty signed  
6 by Barkat to Harrison ceases to exist, it naturally  
7 terminates. It can't be there forever because we're  
8 not doing business with them anymore.

9 Q. So there was no conversation that took place  
10 between anyone at A-Z and anyone at Harrison about  
11 terminating the credit agreement, right?

12 A. No, that conversation would have occurred  
13 with the folks over at Imperial.

13:37:59

14 Q. I'm talking only about the credit agreement  
15 with Harrison. So there was no conversation that took  
16 place about terminating this agreement, rather A-Z  
17 simply ceased placing orders with Harrison; is that  
18 right?

19 A. I mean, there were discussions, there were  
20 e-mails, there were all sorts of stuff that we were --  
21 we were going to buy from Imperial moving forward, not  
22 from Harrison.

23 Q. You had that conversation with someone at  
24 Harrison?

25 A. No. I had that conversation -- well, I may

1 have had that conversation with some people at  
2 Harrison, but definitely had that conversation with  
3 the folks over at Imperial.

13:38:30 4 Q. Who at Harrison did you speak with about no  
5 longer ordering product from them?

6 A. I -- if Rodney was still working for  
7 Imperial -- I mean, for Harrison at the time, then I'm  
8 sure I would have talked to Rodney about it --

9 Q. Do you specifically --

10 A. -- but I've not --

11 Q. -- remember talking to him about it?

12 A. I mean, I don't remember specifically talking  
13 to him about it because at this point, I was dealing  
13:38:54 14 with, you know, the CEO at Imperial, Wayne Baquet, and  
15 so a lot of my dealings or conversations would have  
16 occurred with Wayne Baquet or Brad Prende --  
17 Prendegrast over at Imperial.

18 But I can assure you that we don't -- A-Z  
19 Wholesalers, Inc. doesn't owe a penny to Harrison  
20 Company.

13:39:28 21 Q. I understand that's your position, Mr. Ali.

22 A. No, I -- I just want to make sure that  
23 everybody is clear on that, at least on the record. I  
24 mean, it -- it would be -- you know, you'd be talking  
25 about invoices that go back six or seven years and

1 that's just not how it's done.

2 Q. I appreciate your strategy, Mr. Ali, but I'll  
3 have to ask that you stick to answering my questions.  
4 We'll have to go through this process my way, if you  
5 can --

6 A. Sure, sure.

7 Q. \*CKTP -- if you can do that.

8 A. I'll be glad to go through it your way.

9 Q. I appreciate it.

13:39:59 10 And you just mentioned the conversation  
11 with folks at Imperial. Can you tell me the names  
12 again of all who participated in that conversation?

13 A. Wayne Baquet, Brad Prendegast.

14 Q. Anybody else?

15 A. I can't recall anybody else specifically that  
16 we would have talked to about sort of the high level,  
17 you know, relationship.

18 Q. When did you first talk to Wayne?

13:40:28 19 A. Whew, I don't know. Probably in that 2015  
20 range, right, right around maybe that springtime.

21 Q. When was the first time you spoke to Brad  
22 Prendegast?

23 A. Same time.

24 Q. How did you meet?

13:40:56 25 A. My guess is that Rodney would have requested

1 a meeting.

2 Q. Rodney worked for Harrison, though, right?

3 A. At the time that I met Rodney, he worked for  
4 Harrison. What happened to Rodney's employment around  
5 the time of the spring of 2015, I don't know.

13:41:27 6 Q. So why would Rodney have set up a meeting  
7 between you, Wayne, and Brad if he worked at Harrison?

8 A. Because Imperial was buying out Harrison and  
9 they were transitioning everything to Imperial.

10 Q. In this 2015 conversation you had with Wayne  
13:41:57 11 and Brad, what did they say?

12 A. Pretty much the same thing, that Imperial is  
13 acquiring Harrison Company, it's going to be a  
14 process, sort of a transition process before  
15 everything closes, but they were kind of letting us  
16 know, you know, what's going on behind the curtain in  
13:42:28 17 advance of making any, I think, formal announcements  
18 of a deal closing, but because we were such an  
19 important customer of Harrison, they wanted to let us  
20 know that there may be some personnel changes because  
21 they didn't want to double up their efforts, right,  
22 have two salespeople, two accounting, two CFOs, two  
23 CEOs, two of everything, right, and that we would  
13:42:59 24 still get the same level of service that we were  
25 getting with Harrison, and that they would continue to

1 be a strong supplier partner of ours moving forward,  
2 and, you know, that was -- that was sort of the gist  
3 of it.

4 Q. That conversation took place in March 2015,  
5 right?

13:43:29

6 A. I don't know exactly when it took place, but  
7 I can -- I'm -- I'm fairly confident that it would  
8 have happened around that time frame because I think  
9 we were -- we were a very valued customer of -- of  
10 Harrison and the anticipation was that we would be  
11 just as valued of a customer with Imperial moving  
12 forward.

13 Q. Did anyone else from A-Z participate in that  
14 conversation or it was just you?

13:43:56

15 A. I think it was probably just me.

16 Q. And it was your understanding after that  
17 conversation that you would no longer be doing  
18 business with Harrison and from now on, you would only  
19 do business with Imperial; is that right?

20 A. My understanding was that there was a  
21 transition that was already sort of in place. There  
22 weren't any like exact timings of when things were  
23 going to switch over, but based on my understanding  
24 that they were trying to do that as quickly as  
25 possible, I think they may have even tried to do it

13:44:29 1     sometime in 2014, but it ran over to '15, but that we  
2     would be doing business with Imperial. And when we  
3     received our last invoice from Harrison on March 31st,  
4     2015, the next subsequent invoice that we got was that  
5     first week of April 2015, and that was a Imperial  
6     invoice.

7             Q. And so it's your understanding that when you  
13:44:59 8     received that first Imperial invoice, that meant that  
9     you were no longer doing business with Harrison and  
10    you were only doing business with Imperial; is that  
11    right?

12            A. That is correct.

13            Q. And is that position based only on the  
14    invoice that said Imperial or is there any other  
15    factual basis for your belief?

16            A. No, there -- it's -- it's not just the  
17    invoice. It's, you know, who we were dealing with,  
13:45:28 18    you know. I was dealing with Brad Prendegraft at  
19    Imperial, which is the CFO, Wayne Baquet, who is the  
20    CEO.

21                         It was based off of obviously the  
22    invoices that we were getting, the payments that we  
23    were going to send in relation to those invoices, you  
24    know, who I needed to talk to about any issues in the  
25    relationship. It was based on the announcement or the

13:45:58 1 e-mail that they had sent that, you know, Imperial was  
2 now the entity. It's based on a number of -- number  
3 of things, right. It was no like, hey, just the  
4 invoice changed and all of a sudden it's Imperial and  
5 it's not Harrison.

6 I mean, you know, that may have happened  
7 with some of their small, you know, convenience store  
8 customers, but, again, we were doing a lot of business  
9 with them and so they wanted to make sure that the  
13:46:24 10 process and the transition was very smooth for us.

13:47:01 11 Ms. Finger, can I ask you when you're  
12 coming to a good stopping point because I've been  
13 loading up on liquid, but I've got to put something  
14 solid in my tummy.

15 Q. Sure. Now would be good.

16 A. You sure?

17 Q. Yes.

18 THE VIDEOGRAPHER: Off the record; the  
19 time is 1:47 p.m.

13:47:19 20 (Recess 1:47-2:35.) \*ck ALI3 IS THE SAME  
21 AS ALI2, GOING TO INSYNC

22 THE VIDEOGRAPHER: Going back on the  
23 record; the time is 2:35 p.m.

14:35:28 24 Q. (By Ms. Finger) We've just come back from a  
25 break, Mr. Ali. You understand that you're still

1 under oath, right?

2 A. Yes, ma'am.

3 Q. Before the break, we were talking about A-Z's  
4 relationship with Harrison and we just started  
5 touching on A-Z's relationship with Imperial; is that  
6 right?

7 A. That's correct.

8 Q. When did A-Z place its first order with  
9 Imperial?

14:36:00

10 A. I want to say it would have been on or about  
11 that first week of April 2015.

12 Q. Did you place that order?

13 A. I don't recall if I -- you know, I -- I  
14 placed it, e-mailed it, or what, exactly.

15 Q. You were primarily responsible for placing  
16 the orders with Imperial still though, right?

17 A. Yes.

18 Q. You would have placed that order via e-mail;  
19 is that right?

14:36:30

20 A. I -- I believe so. It -- it would have been  
21 transmitted electronically somehow, either by e-mail  
22 or some other method.

23 Q. What other method would there have been to  
24 submit it electronically?

14:36:52

25 A. Hang on one second. Sorry about that.



1                   There -- I can't recall if there was like  
2 a hand-held device or something that we may have  
3 used.

4           Q.    There was a hand-held device that you could  
5 place orders through, wasn't there?

14:37:27

6           A.    Generally, yeah, I mean, most suppliers have  
7 various ways of accepting orders, we do, too, right,  
8 we -- by e-mail, by Vap \*CKSP, by phone, by hand-held  
9 device, however we can get it.

10          Q.    When did you first start using the hand-held  
11 device to place orders?

12          A.    I don't know exactly.

13          Q.    Do you recall still placing some orders with  
14 Imperial via e-mail, though?

14:37:58

15          A.    I -- I think we -- we continued to send our  
16 orders various methods, hand-held device, e-mail, some  
17 electronic form. What we didn't do is we didn't just  
18 pick up the phone and call, that's for sure, or fax.

19          Q.    You still place some orders through Imperial  
20 via e-mail; is that right?

21          A.    I believe we probably did. Again, my  
22 recollection is not so clear as to exactly how those  
23 orders were being transmitted.

24          Q.    How do you know, then, that you were placing  
25 an order with Imperial and not with Harrison? What

1 was the difference?

2 A. Who we were dealing with, who was fulfilling  
14:38:29 3 the orders, who was billing us for the orders, who --

4 Q. I want to start just at the time that you  
5 placed the order though. So you said that you placed  
6 your first order with Imperial around April 2015. How  
7 did you know at that time that you were placing an  
8 order with Imperial as opposed to with Harrison?

9 A. Because I believe we were told that our next  
10 order would be with Imperial.

11 Q. Who told you that?

14:38:59 12 A. I can't recall exactly who. Could have been  
13 Brad, Wayne, or Rodney or...

14 Q. But at the time you placed the order, how was  
15 it different from how you were placing orders with  
16 Harrison?

17 A. It probably wasn't much different.

18 Q. You can't say any specific differences, can  
19 you?

20 A. It -- it would -- it would still be by some  
14:39:28 21 electronic means, right, e-mail, hand-held device, so  
22 some electronic means we were sending those orders.

23 Q. You weren't, for instance, calling a separate  
24 phone number to place an order, were you?

25 A. I don't -- we weren't placing orders by

1 phone.

2 Q. So you were only placing orders by e-mail or  
3 hand-held device; is that right?

4 A. Yeah.

14:39:56

5 Q. You don't recall whether the e-mail address  
6 that you sent orders to through Imperial was different  
7 from the e-mail address you sent orders to through  
8 Harrison, do you?

9 A. At that time, I'm not sure if it was  
10 different or if it changed at some point  
11 subsequently -- subsequent to that date.

12 Q. You remember it changing at some point  
13 though?

14 A. You kind of broke out.

15 Q. Do you remember the e-mail address changing  
16 at some point through which you would place orders  
17 with Imperial as opposed to Harrison?

14:40:27

18 A. I'm sure over time the communication  
19 transitioned more and more to Imperial -- Imperial  
20 e-mail addresses. I don't know how they handled that  
21 in their transition, whether everybody got new e-mail  
22 addresses immediately or transitioned over or they got  
23 their e-mails forwarded. I mean, that's sort of an  
24 internal thing again.

25 Q. You don't remember specifically, though,

1 placing an order with an Imperial e-mail address as  
14:40:56 2 opposed to placing one with a Harrison e-mail address  
3 at any specific time, do you?

4 A. I don't recall, but I'm -- I'm fairly certain  
5 that it would have been done at some point.

6 Q. But you don't remember specifically the time  
7 that that changed, do you?

8 A. No, I don't remember exactly which dates, you  
9 know, that changed.

10 Q. Was there ever a specific time at which the  
11 salesperson that you dealt with transitioned from a  
14:41:24 12 Harrison sales rep to an Imperial sales rep?

13 A. Yeah, I mean, I think at some point Rodney  
14 Harrison wasn't there anymore. Our account was large  
15 enough -- I mean, I'm sorry, Rodney Thomas, who  
16 originally worked for Harrison, I think at some point  
17 may have worked for Imperial, but we weren't really  
18 dealing with sales reps at that point. My

14:41:55 19 communication was directly with Wayne Baquet or Brad  
20 Prendegraft who were both at Imperial.

21 Q. So you were placing orders directly through  
22 Wayne and Brad; is that right?

23 A. No. When you -- you said if we had a sales  
24 rep from Imperial.

25 Q. Sure.

14:42:23

1           A.    And -- and I'm sure there was probably one  
2   that was assigned to us, but because of the size of  
3   our account and the volume of business, I was dealing  
4   directly with the CEO at Imperial.

5           Q.    When you placed your first order with  
6   Imperial, how did you know that you were placing that  
7   order with Imperial as opposed to placing it with  
8   Harrison at that time?

14:43:00

9           A.    Because we were told that that transition  
10   would be occurring and that our invoices that would be  
11   coming now would be coming from Imperial, so we're  
12   placing our orders with Imperial, receiving product  
13   from Imperial.

14          Q.    But there was otherwise nothing different  
15   about how you placed that first order that indicated  
16   it was with Imperial as opposed to Harrison, was  
17   there?

18          A.    I mean, there's -- I'm sure there's a lot  
19   different, right.

20          Q.    What specifically do you remember that was  
21   different about that first order you placed with  
22   Imperial?

14:43:23

23          A.    Again, the people that we're dealing with,  
24   right, dealing with Brad and Wayne and, you know,  
25   exactly how the order was sent, whether there was

14:43:42

1 something different or not, but the order that was  
2 received came from Imperial invoice with a new account  
3 number for A-Z Wholesale of --

4 Q. \*CKTP

5 A. -- Waco --

6 Q. -- specifically to this point in the time  
7 frame, though --

8 THE REPORTER: Wait, wait, Anna.

9 Q. (By Ms. Finger) -- so when you're placing an  
10 order --

11 THE REPORTER: Anna -- Anna --

12 Q. (By Ms. Finger) -- before you even receive  
13 the product.

14 THE REPORTER: Anna, Anna --

15 A. Yeah, so --

16 THE REPORTER: -- you guys are talking --  
17 I -- yeah, I couldn't -- I need you to restate the  
18 question again. You guys were talking at the same  
19 time and it cut out. I apologize.

20 MS. FINGER: No worries. I'll start  
21 over.

22 Q. (By Ms. Finger) \*CKEDITEDTOHERE Focusing  
23 only on when you first placed an order with Imperial,  
24 prior to receiving delivery of that product, what  
25 about your placing of that order was different from

1 how you previously would place orders with Harrison?

2 A. Who we were placing the order to? We're

14:44:29 3 placing it to Imperial as opposed to Harrison.

4 Q. When you placed your first order with

5 Imperial, what about the process of placing that order

6 was different from when you would place orders with

7 Harrison?

8 A. I don't recall exactly what was different

9 when that first order was placed from March 31st to

10 the first week of April, whether or not a new device

14:44:57 11 was dropped by, whether it was sent to a different

12 e-mail address, if it was still sent to Rodney but

13 Rodney is now with Imperial, I don't know exactly what

14 was different on that particular first order.

15 Q. When did the process change?

16 A. What process? The order willing process.

17 Q. Yes. So when did the process change from how

18 you would place orders with Harrison?

19 A. The process.

20 Q. I'm sorry. At what point did your process

14:45:30 21 for placing orders with Imperial become different from

22 how you used to place orders with Harrison?

23 A. As far as the process is concerned, they were

24 still sent -- both were sent electronically.

25 Q. But you didn't know who was receiving the

1 electronic orders on the other end; is that right?

2 A. Sure, we did. Imperial was receiving it  
3 because Harris -- we weren't doing business with  
4 Harrison anymore.

5 Q. How did you know that when you were placing  
6 the order?

14:45:58 7 A. Again, because we were told that future  
8 orders would be going to Imperial, invoices would be  
9 coming from Imperial, they would be assigned new  
10 account number, A-Z would be assigned new account  
11 numbers, the invoices would come from Imperial, the  
12 payments need to be made out to Imperial.

13 Q. Before we get to that point, there was  
14 nothing about placing an order with Imperial that  
15 indicated it was with Imperial as opposed to Harrison,  
16 was there?

17 A. Sure, yes, we were placing the order to  
18 Imperial.

14:46:27 19 Q. And my question is, how you knew that. Who  
20 were you speaking to at Imperial?

21 A. We, project, I don't know if Rodney was still  
22 there, but Brad and Wayne. I mean this wasn't  
23 something that just happened overnight, right? This  
24 was something that was coming down the pike, right  
25 \*\*\*CHECK and we knew that there would be a date -- a



14:46:55 1 switchover date, right, and that date happened to be  
2 the last purchase from Harrison was on the 31st, of  
3 March 2015 and the subsequent order placed and  
4 received in the first week of April was from Imperial.

5 Q. So any order that was placed after March  
6 31st, 2015 were through Imperial; is that right?

7 A. You cut out there at the end, sorry.

8 Q. Any order that A-Z placed after March 31st,  
14:47:29 9 2015 was through Imperial, is that your position?

10 A. Yes [SP-LT] \*\*SPL\*\* put me in the \*\*SPL\*\*.

11 A. It's.

12 MS. FINGER: Sorry, Kim.

13 A. It's the extra injuring we have from lunch.  
14 Give it an hour again we'll be slower begun.

15 Q. The products thatter A-Z was ordering from  
14:48:00 16 Imperial were not different from the products they  
17 were ordering from Harrison, right?

18 A. No, the products should have been, I think  
19 should have been the same.

20 Q. Who delivered product from Imperial to A-Z?

21 A. Imperial.

14:48:28 22 Q. How do you know that?

23 A. I can't recall exactly when, but you know,  
24 the transition, I think for them took a little bit  
25 longer when it's a lot to do, I can imagine and makes

1 sense, but the invoices we received were from Imperial  
2 so they were being delivered by Imperial, you know,  
14:49:00 3 obviously, I don't know if they changed the insignia  
4 on their trucks immediately, but at some point we  
5 started seeing trucks with Imperial insignia on it. I  
6 can't recall if I saw the delivery drivers with new  
7 shirts but at some point I started seeing new shirts  
8 with Imperial on it, so again, it's not a switch that  
9 you just turn on, right, where all of a sudden you  
10 waive the magic wand and everything changes overnight  
14:49:27 11 and it goes from Harrison to Imperial, but for our  
12 purposes we were buying product from Imperial and  
13 paying Imperial after -- after the Harrison invoices  
14 were paid off and the invoices that we got in April  
15 that started getting paid sometime in July or June of  
16 2015, those payments were going to Imperial, being  
17 made out to Imperial and paid to Imperial.

14:49:59 18 Q. When did you first -- scratch that.

19 Do you know what role Brad and Wayne  
20 play, if any, at Imperial?

14:50:22 21 A. Brad is the CFO and Wayne is the CEO.

22 Q. Do you know what role Brad and Wayne play, if  
23 any, at Harrison \*\*SPL\*\* played \*\*SPL\*\*?

24 A. Brad did not play any roles at Harrison  
25 because their CFO was Brad Albritton, a different

14:50:55 1 Brad, and when they transitioned, I believe Brad  
2 Albritton was let go \*\*SPL\*\* and everything was  
3 Imperial after that.

4 Q. How do you know that? How do you know that  
5 Harrison didn't continue to operate after that  
6 transition that you're referring to?

7 A. I don't know if Harrison continued to  
8 operate, but they certainly didn't supply A-Z  
9 Wholesalers, Inc.

10 Q. The only basis for that statement that  
14:51:27 11 Harrison did not continue to supply product to A-Z  
12 [WHAUELS], Inc. is one, a conversation that you had  
13 with Brad and Wayne, and two, invoices that you  
14 received; is that right?

15 MR. HOLMAN: Objection, form, objection  
16 compound.

17 Q. (By Ms. Finger) You can answer.

18 A. That is not the only evidence. Multiple  
14:51:51 19 conversations, multiple dealings, invoices that went  
20 for four years from March -- from the end of March or  
21 let's call it April of 2015 all the way until March of  
22 2019, multiple conversations, my visit to Imperial in  
23 Louisiana at some point to check out their operations,  
24 you if know, the insignias on the trucks, the drivers,  
14:52:28 25 the business cards, the e-mail addresses, the various

1 communications, the payments that were being made, the  
2 credits that were being requested, how that was being  
3 handled, the accounts receivable, the accounts  
4 payable, I mean, it's the whole relationship  
5 everything.

6 Q. You saw the Imperial trucks when they  
7 delivered product from Imperial, correct?

8 A. Not every time, but I mean, I tend not to be  
9 one of those people that sit in the ivory tower and  
10 sit in my office. I'm a hands on kind of guy on the  
11 floor in the warehouse, usually get there early, leave  
12 late, I see the trucks in the back, I've got cameras  
13 in my office that show.

14 Q. Delivery before, correct?

15 A. I'm sorry.

16 Q. You've seen a delivery truck from Imperial  
17 before, correct?

18 A. Oh, yeah.

19 Q. Did you ever notice that it said Harrison on  
20 the other side or no?

21 A. Said Harrison on the other side of what?

22 Q. The truck.

14:53:30 23 A. You're saying the Imperial truck SAS Imperial  
24 on one side and Harrison on the other side.

25 Q. I'm asking if you ever noticed if that was

1 the case?

2 A. I can imagine maybe during the transition  
3 that was the case. I don't know what, but I -- I  
4 still see Imperial trucks today and it says Imperial  
5 on it. I don't see any Harrison trucks anywhere.

6 Q. Do you know who owns the title to those  
7 delivery trucks once you started receiving deliveries  
14:54:00 8 from Imperial?

9 A. I don't know when the titles were changed,  
10 all that sort of stuff, again, didn't do title  
11 searches.

12 Q. So you don't know if the titles were ever  
13 changed, right?

14 A. I don't know if they even own their trucks or  
14:54:19 15 they lease them.

16 (Exhibit No. 40 marked.)

17 Q. (By Ms. Finger) I'm going to show you what's  
18 been marked as Exhibit 40, four zero, to your  
14:54:48 19 deposition. Let me know when you see it?

20 A. I see it.

21 Q. Have you ever seen this document before?

22 A. Hang on, let me try to zoom in without  
14:55:14 23 zooming in too much.

14:55:59 24 Q. We'll focus on this document a lot, Mr. Ali,  
25 I just want to ask about a definition that's going to

1 be relevant for our next exhibit, so once you've  
2 finished scrolling through, if you can let me know if  
3 you've ever seen this before?

4 A. Yeah, I'm just almost all the way through it.  
5 I believe I have seen this document before.

14:56:27

6 Q. And on the top it says plaintiff's first set  
7 of discovery requests to defendant A-Z Wholesalers,  
8 right?

9 A. Yeah, let me get back up there, yes.

10 Q. Do you have any reason to believe this is not  
11 a true and correct copy of plaintiff Harrison  
12 companies first set of discovery requests that were  
13 served on your counsel?

14 A. I have no reason to believe that that is not  
15 plaintiff Harrison company's first set of discovery  
16 requests to defendant A-Z [WHAUELS], Inc.

14:56:58

17 Q. If I can have you turn to page 4, please and  
18 we're going to look at paragraph number 12. Are you  
19 there?

20 A. Yes.

21 Q. It says the term relevant period means March  
22 11th, 2011 to the present. Did I read that correctly?

23 A. You did read that correctly.

14:57:28

24 Q. Do you understand that throughout plaintiff's  
25 requests, to the extent they say relevant period,

1 plaintiff was referring to the period March 11th, 2011  
2 to the present?

3 A. I see that that's the definition that you  
4 have there but for some reason I recall that the  
5 relevant period or that phrase relevant period was for  
6 October 22nd, 2018 to March 4th, 2019.

14:57:58 7 Q. That may have been?

8 A. That may have been in like subsequent  
9 discovery requests, I don't know, but in my brain,  
10 from what I remember, is the relevant period has  
11 always been October 22nd, 2018 to March 4th, 2019.

12 Q. Perhaps that is a relevant period defined in  
13 another document, I'm not sure, but for purposes of  
14 this document in this discovery request, you  
15 understand that reference to the relevant period means  
16 March 11th, 2011 to the present, correct?

14:58:29 17 A. I understand that that's the definition that  
14:58:33 18 is being put out on page 4.

19 (Exhibit No. 6 marked.)

20 Q. I'm now showing you what's been [-RBGDZ] may  
21 as Exhibit 6 to your deposition. It says there at the  
22 top defendant A-Z up wholesale, Inc. responses and  
23 objections to plaintiff's first set of discovery  
24 requests; is that right?

14:59:21 25 A. Hang on.

1 Q. I'm going to turn to the last page next so if  
2 you can stick with me on the first page, we're going  
3 to get there?

4 A. Yeah, yeah, just, yeah, the title of the  
5 document is defendant A-Z Wholesaler, Inc. responses  
6 and objections to plaintiff's first set of discovery  
7 requests.

8 Q. And do you have any reason to believe that  
9 this is not a true and accurate copy of the responses  
10 and objections that your counsel served to plaintiff?

14:59:52

15:00:56

11 A. I'm looking for verified, yeah, this was the  
12 discovery responses submitted by A-Z's prior counsel,  
13 being Mark bird \*\*\*CHECK.

14 Q. And you're already at that verification page,  
15 right?

16 A. Actually the certificate of service but I'm a  
17 page ahead of you but I can flip back to the  
18 verification pretty quick.

19 Q. You verified these responses as being true  
20 and correct; is that right?

21 A. Yes.

15:01:38

22 Q. If you can scroll back to page 2 of this  
23 document, we're going to look at Request for Admission  
24 number 3. Let me know when you're there, please?

15:01:43

25 A. Okay.



1 Q. RFF number 3 says admit that you ordered  
2 products from Harrison during the relevant period.  
3 Did I read that correctly?

4 A. You did.

5 Q. And in the response, I want to look at the  
6 second sentence. It says "Deny that any of the  
7 product forming the basis of Harrison's lawsuit were  
15:02:30 8 ordered from Harrison."

9 What products do you contend form the  
10 basis of Harrison's lawsuit?

11 A. That's a -- that's a tricky question for me  
12 to answer. Can you rephrase it? I want to make sure  
13 we don't -- I don't misspeak here.

14 Q. Well, you verified the response here that  
15:02:59 15 says, "deny that any of the products forming the basis  
16 of Harrison's lawsuit were ordered from Harrison."

17 What products are you referring to in  
18 that sentence?

19 A. There are no products.

20 A. That form the basis of the.

21 Q. So what you're saying?

22 A. Of the Harrison -- I guess what's being said  
23 there, again, is that there are no products that form  
15:03:25 24 the basis of Harrison's lawsuit were ored from

25 Harrison. It's another way of saying that there is no

1 basis for Harrison's lawsuit because no payment -- no  
2 open invoices and no product was ordered from Harrison  
3 for which A-Z still owes money to.

4 Q. That's not what this sentence says though.  
5 This sentence implies that there are products that are  
6 forming the basis of Harrison's lawsuit. What are  
15:03:58 7 those products that you contend Harrison is suing for?

8 A. I'm not going to speculate on what the  
9 sentence implies or doesn't imply. The way I read  
10 that sentence is it's basically a denial that there  
11 are any products that form the basis of Harrison's  
12 lawsuit because none of the products that are being  
13 discussed for the invoices from October 22nd, 2018 to  
14 March 4th, 2019 were purchased from Harrison.

15:04:29 15 Q. Mr. Ali, have you read the pleading in this  
16 case?

17 A. Probably a long time ago.

18 Q. Do you understand that Harrison is not suing  
19 on the specific invoices that you're referring to?

20 MR. HOLMAN: Objection, form.

21 A. I can't imagine what invoices Harrison would  
22 be suing us on.

23 Q. (By Ms. Finger) I appreciate how?

24 A. Why don't you tell me what invoices Harrison  
15:04:58 25 is suing us on.

1 Q. Harrison is suing on the credit agreement  
2 which we reviewed earlier in some of the exhibits and  
3 I ask that only to try to clarify this specific  
4 Request for Admission.

5 A. I got to write this one down because it seems  
6 like a new one to me. So Harrison.

7 MR. HOLMAN: Objection, that's a  
8 misstatement of the facts. Harrison also has a breach  
9 of contract as well as the breach of the guarantee.

10 MS. FINGER: Correct.

15:05:28 11 MR. HOLMAN: So it's not just on the  
12 guaranty.

13 MS. FINGER: I didn't say it was just on  
14 the guaranty. I said it was not on any particular  
15 invoice. We're not suing for breach of a specific  
16 invoice. It's a breach of the credit agreement.

17 MR. HOLMAN: No, you're not. There's a  
18 breach of the guaranty.

19 MS. FINGER: Correct.

20 MR. HOLMAN: You're showing on a breach  
21 of -- breach of contract related to the invoices that  
22 you specify and those products are related to those  
23 invoices.

15:05:59 24 MS. FINGER: Harrison -- I'm not going to  
25 argue with you about Harrison's theory of the case. I

1 will say this breach of contract suit is not on the  
2 specific invoices as contracts themselves. Correct,  
3 have you read the pleading Mr. Ali.

4 MR. HOLMAN: Yes, I have I read it  
5 several times.

6 MS. FINGER: I apologize, I didn't mean  
7 you Mr. Holman, I imagine you have, I meant no respect  
8 there, I meant Mr. Ali.

9 A. Again, I've read the pleadings, it's been a  
15:06:28 10 while. I've responded to discovery and your discovery  
11 requests if you go down a little bit further specify  
12 particular invoices that Harrison is alleging are  
13 unpaid to Harrison which is in all practical purposes  
14 in the world that I live in, which is I think reality,  
15 right, earth A or earth 1, earth 1, Harrison doesn't  
15:07:00 16 have those invoices. Those are not Harrison invoices.

17 Q. Mr. Ali, I'm going to object as nonresponsive  
18 so that we can move forward here.

19 I'll represent to you that Harrison is  
20 not suing for payment of any specific product, so my  
21 question to you is what specific products you are  
22 referring to in this discovery response that you  
23 believe form the basis of Harrison's lawsuit?

15:07:28 24 A. So if Harrison is not suing based on any  
25 particular product, then I don't really understand

1 what Harrison is suing us over, but if you're saying  
2 it's over the credit agreement, then there's no money  
3 owed under that credit agreement or the personal  
4 guaranty. If your question.

5 Q. If --

6 A. Let me answer so we can move on because I  
7 think we can go -- we can go around and around on this  
8 all day long and we're not going to get anywhere.

15:07:58 9 If you're asking me what products is  
10 being referenced in this denial to RFA number 3, the  
11 products are any products because what we're saying is  
12 that there are no products that A-Z purchased from  
13 Harrison that A-Z wholesale still owes Harrison any  
14 money, so there are no products that form the basis of  
15:08:27 15 Harrison's lawsuit that were ordered from Harrison  
16 \*\*SPL\*\*.

17 Q. That answered my question. Thank you.

18 We are going to turn next?

19 A. You hit me with lots of questions as far as  
20 your theory of the case, again, I'm sure we'll get  
15:08:55 21 there at trial but \*\*\*CHECK beginning of answer  
22 \*\*\*CHECK.

23 Q. I want to turn to page 25 now in these  
15:09:16 24 responses and look at Interrogatory No. 1 and the  
25 response to Interrogatory No. 1 is on page 26 and I

15:09:51 1 want to look at some of the factual statements in  
2 A-Z's substantive response. Please let me know when  
3 you're on page 26?

4 A. I'm on page 26 and I read the response.

5 Q. Great. So not the first two paragraphs which  
6 are objections but looking to the third paragraph, the  
7 first sentence states, "the credit agreement and other  
8 correspondence makes up the entirety of the agreement  
9 between A-Z and Harrison." Did I read that correctly?

10 A. You read that correctly.

11 Q. And the credit agreement are the exhibits we  
12 looked at earlier that we've been referring to as the  
15:10:29 13 credit agreement, correct?

14 A. Yes, ma'am.

15 Q. What other correspondence are you referring  
16 to here that is also part of the agreement between A-Z  
17 and Harrison?

18 A. The e-mail communications between A-Z and  
19 Harrison during the time that A-Z was doing business  
15:10:48 20 with Harrison, s are the oral conversations, and how  
21 the parties and the actions of the parties, right, I  
22 think all of that sort of makes up the agreement I  
23 think we talked about that earlier in my testimony,  
24 about the relationship to A-Z and -- and Harrison and  
25 how things changed over time and they weren't in that

1 sort of confined box of the terms and conditions of  
2 the credit agreement.

15:11:28 3 Q. What agreements did A-Z reach with Harrison  
4 via e-mail?

5 A. I can't point to any specific ones but I'm  
6 sure there's e-mails about pricing, about credits,  
7 about rebates, about damaged goods, about discounts,  
8 about marketing spend, about other incentives, credit  
15:11:54 9 terms, credit limits, payment terms, forceouts,  
10 promotional products, a number of e-mails throughout  
11 that four-year -- is it four-year? Yeah, four-year  
12 relationship that would have comprised the entire  
13 agreement between A-Z wholesale and Harrison.

14 Q. You can't point to any specific agreement  
15 that was reached via e-mail that you contend forms a  
15:12:27 16 contract between the parties, can you?

17 A. I'm sure if you pulled up some e-mails from  
18 that time period, I'm sure I could point to several  
19 e-mails that probably talk about that.

20 Q. I want to know what ones you're referring to  
21 here that form that agreement.

22 A. There's way too many documents that have been  
23 produced in this case and I haven't looked over every  
24 single e-mail since it has been produced to point to a  
25 specific e-mail that shows that that correspondence is

15:12:59 1 part of the overall agreement between A-Z and  
2 Harrison, but I contend and I will stick to this, that  
3 there -- that that that does exist afternoon certainly  
4 you can take the time to look at them and if you want  
5 to point me to a particular e-mail during that time  
6 frame and I can tell you whether or not that was part  
7 of the agreement or not part of the agreement.

8 Q. You're a lawyer, Mr. Ali, correct?

9 A. I am.

10 Q. Have you ever drafted discovery responses  
11 before?

12 A. Unfortunately, I have, but it's been a really  
15:13:30 13 long time.

14 Q. So you understand that it's the  
15 responsibility of the party responding to discovery  
16 responses to answer with specificity, don't you?

17 A. I think -- I think it's the responsibility of  
18 both parties to be as specific as they can whenever  
19 they possibly can to narrow the issues for trial,  
20 right, so in judicial efficiency purposes, let's not  
15:13:59 21 take up the court's time and talk about a bunch of  
22 stuff that's not got to do anything with trial. Get  
23 ready for trial and figure out where the actual  
24 dispute lies and so, yeah, I think that's -- I think  
25 that's good practice \*\*\*CHECK, I don't know if that's



1 a rule, like I said, I haven't responded to formal  
2 discovery in a really long time and as the client  
3 here, I think I would have supplied information or  
4 provided the associate or whoever with information  
15:14:28 5 that they then put into the appropriate legalese  
6 response that you see in front of you today.

7 Q. But so you understand that it's your  
8 responsibility in responding to the discovery to point  
9 to the correspondence that you contend makes up a  
10 contractual agreement, right?

11 A. I don't know if that's my responsibility or  
12 the lawyer's responsibility, but in producing all the  
15:14:59 13 documents, which I don't know if we had gone through  
14 production at this point, you know, if there's -- in  
15 this discovery request if there is a request for  
16 production.

17 Q. I'm sure there is and documents were produced  
18 but even in responding to interrogatories there's a  
19 requirement by the rules for specificity, and so other  
20 correspondence is not something I can decipher  
21 specific e-mails from, so my question to you is if you  
22 could point me to any specific e-mails that I could  
15:15:29 23 pull from the production in this case that you contend  
24 are part of the contractual agreement between A-Z and  
25 Harrison?

1           A.    So I am certain that I can but I can't do  
2   that right now because I haven't reviewed all of the  
3   e-mails from 2011 to March of 2015 to point you to  
15:15:55 4   that, but I would be glad to maybe have our attorneys  
5   supplement, right, or provide you with more responses  
6   to at least give you a couple examples, but like I  
7   said, the correspondence covers e-mails,  
8   conversations, how the parties conducted business with  
9   each other, all the various correspondence includes  
10   credit memos, rebates, promotional, marketing spend,  
11   forceouts, I mean a number of things that all impacted  
15:16:29 12   their relationship and the agreement, and then  
13   ultimately we have the -- the what I would -- what I  
14   would argue is the controlling contract which is the  
15   invoices, which is why I didn't understand you earlier  
16   which is Harrison is not suing on specific invoices,  
17   then I'm not really sure what Harrison is suing on.

15:16:58 18           Q.    You understand that an invoice isn't a  
19   contract, don't you?

20           A.    No, I don't understand that. I probably  
21   wouldn't even agree with that in my legal capacity,  
22   but just in my like professional capacity as a  
23   business owner. If I get an invoice, that's a  
24   contract, that means goods or services were provided,  
25   unless I dispute whether or not those goods or

15:17:28 1 services provided or there's an issue with the goods  
2 and services that were provided, there's an obligation  
3 then to pay the amount unless I dispute the amount or  
4 there's issues with the invoice. I mean, that's how I  
5 believe that works.

6 Q. If you entered into an agreement with a  
7 supplier to pay a dollar for your pen and the  
8 supplier?

9 A. That was before lunch.

10 Q. We love the pen?

15:17:59 11 A. I'm saying it was ten cents before lunch so  
12 it went up 90 cents after lunch.

13 Q. That's right, we're increasing.

14 A. All right.

15 Q. So if you entered into an agreement with a  
16 supplier via e-mail that you were going to purchase a  
17 pen for a dollar and the supplier delivers the pen and  
18 also hands you an invoice for \$5, would you contend  
15:18:29 19 that the supplier breaches the previous agreement or  
20 does the invoice govern?

21 A. I wouldn't look at those as two distinct  
22 agreements.

23 Q. You are?

24 A. R?

25 A. I would look at the e-mail and the invoice as

15:18:59

1 one agreement and I would state that there is a  
2 irregularity in the invoice because the offer to  
3 purchase the pen was for a dollar, not for \$5 and so I  
4 would either in that case reject the invoice, send the  
5 product back or have the supplier correct the invoice  
6 to a dollar and that way the e-mail and the invoice,  
7 the offer and the, I guess acceptance kind of match up  
8 \*\*\*CHECK get.

9 MS. FINGER: \*\*SPL\*\*.

15:19:27

10 Q. That was because the initial agreement you  
11 made for one dollar for the the pen is what governs  
12 the transaction, isn't it?

13 A. Not necessarily.

14 Q. What if the supplier came back and said, no,  
15 we had a contract, it's the invoice that's in front of  
16 you and that says \$10 so now you owe me \$10?

17 A. We would just send the product -- we would  
18 just send the product back.

19 Q. On what basis?

20 A. On the basis that I'm not paying \$10 for a  
21 product that's not even worth ten cents before lunch.

22 Q. Because you agreed to \$1 previously, right?

15:19:59

23 A. No, because I think fair value would be that  
24 \$1.

25 Q. Let's put this hypothetical in terms of all

1 fair values. Let's say that the pen was agreed to for  
2 a price of ten cents via e-mail, the supplier delivers  
3 the pen with an invoice that says now you'll pay 15  
4 cents. You would send the product back and say, no, I  
5 agreed to only pay 10 cents, wouldn't you?

6 MR. HOLMAN: I'm going to object form.

7 A. It depends.

15:20:28

8 MR. HOLMAN: On relevancy. We're doing  
9 hypotheticals at this point. Let's move on to  
10 something substantive.

11 Q. (By Ms. Finger) You can still answer the  
12 question, Mr. Ali?

13 A. Yeah, my answer is going to be it depends,  
14 right? It depends on whether or not there was a price  
15 increase from the time that we ordered the product at  
16 ten cents and then the supplier's price went up by the  
17 time we got it, the price went up so then we paid 15  
18 cents, whether or not we think 15 cents is fair and we  
19 were getting, you know, the offer was incorrect,  
20 somebody at that -- at that company made a mistake and  
21 gave us the wrong price, I mean, there's so many  
22 variables in this height.

15:20:59

23 Q. I want to ignore all of those and the  
24 question solely that I'm getting at is whether your  
25 agreement to pay ten cents before receiving the

1 invoice or the invoice itself that says 15 cents,  
2 assuming no mistake was made, which agreement forms  
3 the binding transaction between the parties? Which  
4 one is a contract?

15:21:26 5 A. I disagree with the premise of your question.

6 Q. How -- had?

7 A. I know what you're trying to get me to say  
8 but I don't -- I disagree with the premise of your  
9 question that those are two distinct agreements. I --  
10 I believe that the entire agreement is made up of both  
11 of those documents and whatever subsequent  
12 conversations happened when we get that invoice to try  
13 to correct that invoice or to make things right, so I  
14 think there's -- there's just more to it. It's just  
15:21:56 15 not that -- it's just not that clean. I feel like I'm  
16 back in law school with all those hypotheticals.  
17 Those things drove me nuts then.

18 (Exhibit No. 8 marked.)

19 Q. (By Ms. Finger) I'm going to show you what's  
15:22:24 20 been marked as Exhibit 8 to your deposition. Do you  
21 see it?

22 A. Yes, I do.

15:22:53 23 Q. And is this defendant A-Z Wholesalers, Inc.,  
24 Inc. response to plaintiff's second set of discovery  
25 requests?

1 A. That's what it says, yes.

2 Q. If you turn to the last page, these were  
3 verified by Barkat Ali; is that correct?

4 A. No, they were verified by Amar Ali.

5 Q. They were verified by you, I may have the  
6 wrong printout in front of me. Yes, I'm sorry, you  
7 verified these responses, didn't you?

8 A. Yes, ma'am.

15:23:29 9 Q. Okay. Turning back to the first page, if we  
10 can look at paragraph number 1 and the definition says  
11 modified oral agreement or MOA refers to the oral  
12 modification of a payment terms concerning Imperial's  
13 invoices to A-Z. What were A-Z's initial payment  
14 terms with Imperial?

15:24:00 15 A. I want to say they were probably eight to ten  
16 weeks, two months.

17 Q. Can you be more specific?

18 A. I can't without looking at the invoices and  
19 the prior invoices and determining what the terms  
20 were.

21 Q. How were those payment terms modified as you  
22 refer to here in paragraph 1?

15:24:27 23 A. The payment terms were modified and they were  
24 modified by discussion with Wayne and Brad at Imperial  
25 that A-Z was to reduce its -- its credit --

15:24:57 1 outstanding credit with Imperial on a weekly basis.  
2 So I'll give you an example. If A-Z wholesale owed  
3 Imperial a million dollars and the following week we  
4 were going to order \$200,000 worth of product, Brad  
15:25:27 5 and Wayne wanted to see a payment that following week  
6 of more than 200 -- \$200,000 so that that credit  
7 number would go down, right, that outstanding credit  
8 would go down, not up, and generally did that from  
9 time to time, it would spike maybe one week and then  
10 the next week it would go down a little bit more, but  
11 generally that was how the oral -- that was how the  
15:25:54 12 modified oral agreement worked. In exchange for that,  
13 Harrison -- I mean, excuse me, that's a Freudian slip.  
14 Imperial promised to continue to supply product to A-Z  
15 wholesale, so as long as that number on a weekly basis  
15:26:13 16 continued to come down, they would supply product.  
17 Q. Why was the outstanding balance for A-Z so  
18 high with Imperial?  
19 A. In the grand scheme of things, I don't think  
20 it was so high. You have to understand that over the  
21 course of doing business with Imperial, and heck, I'll  
22 say in the -- in the course of doing business with  
23 Harrison for the first four years and then Imperial  
15:26:58 24 for the next four years, A-Z Wholesalers, Inc., and  
25 I'm not sure if I'm counting the diamond wholesale or



1 the Top 20 Sherman wholesale, I mean, we did nearly a  
2 hundred million dollars worth of business with those  
3 two companies over the course of eight years, and so  
15:27:26 4 having a balance that Brad and Wayne wanted to see  
5 reduced is really something that they wanted to see  
6 and we -- we wanted to comply and so, you know, we  
7 were willing to reduce the amount on a weekly basis,  
8 so order versus payments, payments should be more than  
15:28:04 9 orders.

10 Q. When did that oral modification agreement  
11 take place?

12 A. I don't recall, but I am fairly certain that  
13 if I looked through e-mails that have been produced, I  
14 could probably pinpoint to a time frame where that  
15 happened.

16 Q. You didn't look at any of those e-mails in  
15:28:27 17 preparation for your deposition today?

18 A. No. Quite honestly, Ms. Finger, I didn't  
19 spend very much time in preparation for the deposition  
20 today. I tried to but there's no way that I could  
21 have gone through all of the production, all of the  
22 e-mails, all of the various filings in preparation for  
23 this deposition and even if I had gone through all  
24 that, I probably still wouldn't be able to tell you  
15:28:58 25 right now what day that moral or that modified oral

1 agreement took place or what subsequent or, you know,  
2 are moral -- modified oral agreements occurred.

3 Q. So you can't point me to a date certain that  
4 this oral modification took place; is that right?

5 A. Not right now, I cannot but I'm sure that I  
6 probably could if we go to trial, I will make a note.

15:29:29

7 Q. You understand that I'm entitled to know that  
8 answer to that question before we go to trial and  
9 that's the whole purpose of this deposition, right?

10 A. I don't know if that's the purpose of this  
11 definition -- or the deposition and I do think you're  
12 entitled to that answer but if I can't answer that  
13 question right now, instead of me giving you a date  
14 and saying, oh, it occurred on, you know, August, 2015  
15 or it occurred in September of 2018, I don't want to  
16 misspeak because then you'll throw my deposition up at  
17 trial and be like oh, you said it was this date but  
18 it's really this date and you'll try to impeach my  
19 credibility but I'd rather just tell you I don't  
20 recall exactly when that modified oral agreement  
21 occurred.

15:29:53

22 Q. Those are two very different possibilities  
23 that you just gave. Can you give any approximation as  
24 to around when that oral modification took place?

25 A. No, ma'am, I cannot.

15:30:25 1 Q. You can't even tell me a year?

2 A. No, not -- not right now. If I gave you a  
3 year and it ended up being like the next year, then  
4 again.

5 Q. Let's look at page 3 of this exhibit and I  
6 want to look at interrogatory number 14?

7 A. And by the way, you can talk to your clients.  
8 I can't imagine your clients would deny that modified  
15:30:59 9 oral agreement.

10 Q. I understand, Mr. Ali, but I'm here to ask  
11 you questions today?

12 A. Sure.

13 Q. I've spoken to my client as well?

14 A. Did they tell you? Did they tell you when we  
15 talked about reducing the debt amount?

16 Q. If you can turn to page 3, Mr. Ali, and if  
17 you can look at interrogatory -- interrogatory number  
18 14, please?

15:31:45 19 A. Okay.

20 Q. The second sentence of the response says once  
21 A-Z was notified that Imperial purchased Harrison and  
22 that the relationship with Harrison was terminated,  
23 Imperial and A-Z entered into a modified oral  
15:31:59 24 agreement, MOA to extend terms on delinquent  
25 invoices." Did I read that correctly?

1 A. Yes, ma'am.

2 Q. And you testified earlier that the time that  
3 Harrison was terminated was approximately March 2015;  
4 is that right?

5 A. The end of March, yes.

6 Q. So is that the time that the oral agreement  
7 was entered with Imperial according to the sentence?

8 A. This -- I don't know if this sentence is  
15:32:29 9 referencing the same modified oral agreement that.

10 Q. That modified oral agreement is in capital  
11 letters according to the definitions set forth  
12 earlier, isn't that reright?

13 A. And so this would be the.

14 A. It is.

15 Q. So this would be the same modified oral  
16 agreement we were discussing, wouldn't it \*\*\*CHECK?

17 A. I don't know. I can tell you what this  
18 modified oral agreement is referencing if that's what  
19 you want to ask me and then you can figure out if it's  
15:32:57 20 the same one or a different one since we don't really  
21 know which one.

22 Q. I know that when the words modified oral  
23 agreement are capitalized in this document, I'm going  
24 to read it according to the definition that was given  
25 earlier. Are you stating now that this is referring

1 to a different modified oral agreement?

2 A. All I'm stating is I don't recall when that  
3 modified oral agreement was entered into that we were  
4 discussing in the prior -- I don't know if it was an  
15:33:29 5 interrogatory or discovery response. What this  
6 modified oral agreement is referring to is that when  
7 we started purchasing product from Imperial and the  
8 relationship with Harrison was terminated, A-Z  
9 Wholesalers, Inc. still owed money to Harrison, okay?  
10 Follow me so far?

11 Q. Yes.

12 A. And when A-Z started doing business with  
15:34:00 13 Imperial, Imperial started selling product to A-Z  
14 wholesale and did not expect to get paid under the  
15 terms that they would normally get paid by a new  
16 customer, which probably would be about a month,  
17 right, because we were running two months with  
18 Harrison. So we spent the first two months while  
15:34:27 19 doing business with Imperial paying off the Harrison  
20 invoices and the modified oral agreement refers to the  
21 terms on delinquent invoices that we then had with  
22 Imperial because we were running a month past the  
23 terms that I think may have been on the invoices that  
24 Imperial was sending us. If you pull an Imperial  
25 invoice, I think it says terms, one month or 30 days,

15:34:59 1 right? And so we were -- after doing business with  
2 Imperial during the month of April and not having paid  
3 the -- those April invoices, by the time we got into  
4 May we were delinquent, right, on the terms and so the  
5 modified oral agreement was, no worries, make sure  
6 that Harrison gets paid off, once that's paid off,  
7 then you start paying Imperial invoices.

8 Q. When was that modified oral agreement that  
9 you're referring to now, when was that entered?

10 A. That -- that would have occurred, right,  
15:35:30 11 during this period of time.

12 Q. What period of time?

13 A. This March, April, May time frame, right,  
14 along with the discussion of taking the overall  
15 number, once Harrison is paid off, and continuing to  
16 reduce Imperial's accounts receivable and trying to  
15:35:57 17 bring it closer to the terms that were on the invoice,  
18 trying to bring -- trying to go -- trying to go from  
19 being two months in terms and go to seven weeks, and  
20 then six weeks, slowly reduce that amount, purchasing  
21 X versus payments Y, payments should be more than  
22 purchasing.

23 Q. Let me see if I've understood you correctly  
15:36:29 24 about this first oral agreement.

25 A. It's -- no, what you're referring to this

1 modified oral agreement, right?

2 Q. The one that you are referring to now, an  
3 oral agreement that you contend took place in March  
4 2015, right, I want to make sure I understand you  
5 correctly?

6 A. I said that that -- that modified oral  
7 agreement occurred at some point in that March, April,  
8 May time frame, when we started doing business with  
15:36:59 9 Imperial, or may have even occurred slightly prior to  
10 that, I don't know, in preparation for us doing  
11 business with Imperial, right, because it wasn't just  
12 a light switch that we just turned on and said whoops,  
13 here you go, right.

14 Q. You testified earlier that the relationship  
15 with Harrison was terminated in March of 2015; isn't  
16 that right?

17 A. Correct.

18 Q. And so it says here that once A-Z was  
19 notified that Imperial purchased Harrison and that the  
15:37:27 20 relationship with Harrison was terminated, so we're in  
21 March 2015 so far, do you agree?

22 A. We should be, yes.

23 Q. It says Imperial and A-Z entered into a  
24 modified oral agreement to extend terms on delinquent  
25 invoices. Did I read that correctly?

1 A. Yes.

2 Q. So at this point, are A-Z had terminated its  
3 relationship with Harrison, correct?

4 A. Yes.

5 Q. And had not yet placed its orders with  
6 Imperial, right, you were still negotiating the  
7 initial terms?

8 A. No.

15:37:59 9 Q. You had already placed an order with Imperial  
10 before agreeing to the payment terms; is that what  
11 you're saying?

12 A. No, what I'm -- what I'm saying is -- if  
13 you're asking me on which day did the modified oral  
14 agreement take place, right, I can't point you to the  
15 exact date without maybe looking at some e-mails that  
16 might refresh my memory, but the modified oral

15:38:26 17 agreement took place at a time when Imperial and A-Z  
18 were doing business and no longer doing business with  
19 Harrison, or at least in preparation of that, because  
20 the goal was Imperial would start selling us product,  
21 our payments would be made to Harrison for the open  
22 invoices that remained. Once those open invoices were  
23 fully paid off to Harrison, probably sometime in June,  
15:38:58 24 early July of 2015, then the payments would resume or  
25 would start for Imperial.



1           At that point, Imperial's invoices were  
2 probably eight, ten weeks out and so we were to pay  
3 those invoices last -- first invoice -- the first  
4 invoice from April 1st, pay that one first, and then  
15:39:26 5 pay the next subsequent invoice so on and so forth,  
6 and at the same time continue to reduce the credit  
7 amount that had accrued during that first eight to ten  
8 weeks of doing business with Imperial and reduce that  
9 amount on a weekly basis, and in exchange, Imperial  
15:39:58 10 would continue to serve and deliver goods to A-Z  
11 wholesale.

12           Q. Looking again at this specific interrogatory,  
13 shall why is this oral agreement not distinguished  
14 from the other oral agreement you were referring to  
15 earlier with Imperial?

16           A. It may not be another oral agreement, like  
17 you were saying, it's capital, it's capital aislessed,  
18 right, so it refers to a specific modified oral  
19 agreement.

15:40:28 20           Q. So in March 2015 or sometime in that time  
21 frame, then, is your testimony when the oral agreement  
22 took place that we were referring to earlier, where  
23 A-Z would pay more than the amount it was purchasing?

24           A. Again, I can't pinpoint you on whether or not  
25 that occurred in March, whether that occurred in

1 April, whether that modified oral agreement occurred  
2 in June, but it did occur because Imperial started  
15:40:58 3 shipping product, delivering product and A-Z started  
4 purchasing product from Imperial in April of 2015,  
5 that first week; however, our first payment to  
6 Imperial for that -- for those invoices for the  
7 product that was purchased and delivered by Imperial  
8 to A-Z wholesale probably did not occur until sometime  
9 in June or July, and at that point you would have had  
10 eight weeks or ten weeks worth of business, let's say  
15:41:29 11 even at two million -- at \$200,000 a week, you're at  
12 \$2 million that now A-Z owes Imperial for invoices,  
13 you know, minus credits and offsets and rebates and  
14 all that other stuff, right, just on invoice, right,  
15 you're at \$2 million and you're at payment terms that  
16 are at two. So the agreement was let's take that \$2  
17 million number and just reduce that every week so  
15:41:58 18 which means, if you buy X, if you buy \$300,000, pay  
19 more than \$300,000 that following week so that number  
20 requests down, buy it hundred thousand dollars, pay  
21 more than \$200,000 so that number goes down. Now that  
22 occurred and every once in a while if it moved we jump  
23 on the phone with Wayne and Brad, I would jump on the  
24 phone with Wayne and Brad, it's a short week, it's a  
25 holiday, we're only ordering once, we're going to do

1 this, so the extra \$20,000 that the amount went up  
15:42:27 2 with Imperial this week, we'll make that up next week,  
3 right, and so we had those agreements also but this  
4 modified oral agreement I believe specifically relates  
5 to the -- the initial agreement that we had with  
6 Imperial and how it was modified so so that Harrison  
7 could get completely paid off and we would have the  
8 extended terms for the delinquent invoices or the past  
9 term invoices that we had with Imperial, because I  
10 think if you pull up an Imperial invoice it would say  
15:42:59 11 one month but we started off with terms of nearly two  
12 months or two and a half months \*\*SPL\*\* months back  
13 there \*\*SPL\*\*.

14 Q. If you could turn back to page 2 to this  
15 exhibit, Mr. Ali and look for Request for Admission  
15:43:16 16 number 155; do you see that?

17 A. I mean, this -- this Request for Admission  
18 says a little more succinctly what I was trying to say  
19 over the last two or three minutes.

20 Q. And you see -- it's in front of you though,  
21 correct?

22 A. It's in front of me, yes.

23 Q. So I want to look at specifically number 3 in  
24 the response.

25 A. Yes.

1 Q. So this response says that A-Z has an  
15:43:57 2 agreement with Imperial that Barkat Ali was excused  
3 from person -- I guess that means personal liability  
4 for payment on Imperial's invoices. Did I read that  
5 correctly?

6 A. That's correct.

7 Q. When was that agreement made?

8 A. That was -- this was all done at the same  
9 time, right, like this is all -- this is all part of  
10 the same agreement to do business with Imperial.

11 Q. Was this agreement made in one conversation?

12 A. I don't know if it was all done in one  
15:44:29 13 conversation. It probably -- I think things were  
14 touched on probably in one conversation but we had  
15 subsequent conversations and many conversations to  
16 make sure that everybody's staying on track and that  
17 we're doing exactly what we're supposed to do.

18 Q. Who participated in those conversations?

19 A. Wayne and Brad and it may have just been one  
20 on one with Wayne and Wayne told Brad and then Brad  
21 communicated with me, it may have been both of them on  
22 the phone. I mean, we had several conversations, so  
15:44:57 23 it's not, you know, again, it's not as clean as you'd  
24 like to say, hey, all of this happened, because I  
25 mean, again, it doesn't talk about in this response it

1 doesn't talk about reducing that amount, right,  
2 reducing the payment terms with Imperial, that was  
3 also discussed, so there's several things in there, it  
4 doesn't -- you know, it doesn't discuss promotional  
5 product, rebates.

6 Q. I understand. Mr. Ali, I want to focus on  
7 what it does say for now so we can get through this  
8 smoothly and quickly?

15:45:30 9 A. Okay.

10 Q. So from those conversations you just  
11 mentioned, do you recall which one expressly released  
12 Barkat Ali from any personal liability?

13 A. I'm sure the initial conversations would have  
14 done that.

15 Q. Who was that with?

16 A. With Brad and Wade.

17 Q. When did that take place?

18 A. Around the time that we either started doing  
19 business with Imperial, were preparing to do business  
15:45:59 20 with Imperial or had started doing business with  
21 Imperial, right, again, in that March time frame,  
22 April, May, you know, just in that -- in that area.

23 Q. Number 4 in your response to RFA number 155  
24 says "Promissory note executed by Amar ailly on behalf  
15:46:29 25 of A-Z." Did I read that correctly?

1 A. Yes.

2 Q. ?

3 (Exhibit No. 11 marked.)

4 Q. (By Ms. Finger) I'm going to show you now  
5 what's been marked as Exhibit 11. Let me know when  
15:46:53 6 you see it. Do you have it up in front of you,  
7 Mr. Ali?

8 A. Hang on. I'm looking through it real quick.  
15:47:24 9 Bear with me.

10 A. Yeah, I've got it there.

11 Q. Have you seen this document before?

12 A. I have.

13 Q. And the first page is an e-mail chain between  
15:47:59 14 you and sandy, Wade and Brad; is that right?

15 A. That's actually not the first e-mail. I  
16 think -- is it? Oh, yeah, it is. All right. I see  
15:48:27 17 the -- I see the first -- the top e-mail there, yes.

18 Q. Great. And this is an e-mail from you to  
19 sandy?

20 A. Sorry, I -- sorry, I didn't mean to cut you  
21 off, but it's not the first e-mail. I received an  
22 e-mail from sandy and then however.

23 Q. Mr. Ali, if we can stick to my question. I  
24 want to walk through it with you so just this e-mail,  
25 there are two e-mails here; is that correct?

1 A. Yes on the first page.

2 Q. Yes, and the first one is at the bottom; is  
3 that right?

4 A. That's correct.

15:48:59 5 Q. And so sandy first sends an e-mail to you  
6 copying Wade and Brad, correct?

7 A. Correct.

8 Q. And then you respond to that e-mail, also  
9 copying sandy, wane and Brad; is that correct?

10 A. That's correct.

11 Q. And attached to your e-mail is a document  
12 titled A-Z Wholesalers, Inc. promissory note executed  
13 1-11-2019; is that right?

14 A. That's correct.

15 Q. And if we turn to the next page, we'll see  
16 the promissory note that you attached to your e-mail;  
17 is that right?

15:49:27 18 A. Yes.

19 Q. And that's dated January 11th, 2019, correct?

20 A. Yes.

21 Q. Is this the promise note that you were  
22 referring to in RFA number 155 in your discovery  
23 responses?

24 A. Maybe. I don't -- I got -- I got to go back  
25 and look.

1 Q. Is there another promissory note that you  
2 entered with Imperial?

15:49:58 3 A. Not that I can think of but, again, there's  
4 been so many documents in this case that if there --  
5 if there isn't another promissory note that -- that I  
6 entered into on behalf of A-Z wholesale or in my  
7 personal capacity as a commercial guarantor, then that  
8 would -- this would be the promissory note that's  
15:50:25 9 being referenced in that RFA response.

10 Q. You only discussed entering into one  
11 promissory note with Imperial, right?

12 A. In the RFA response?

13 Q. In general?

14 A. Yeah, I think so.

15 Q. If you can turn to the last page of this  
16 document, you signed on behalf of A-Z; is that right?

17 A. That is correct.

18 Q. You also signed as guarantor; is that right?

15:50:58 19 A. That is correct because at that time I owned  
20 the company.

21 Q. In this deposition -- I'm sorry?

22 A. I said at that time I owned the company.  
23 This was done in 2019 and so I would be signing the  
24 guaranty.

25 Q. Is it your position that this agreement is



1 binding?

2 A. What do you mean by binding?

3 Q. I mean is this promissory note finalized and  
15:51:30 4 in effect?

5 MR. HOLMAN: Objection, that calls for a  
6 legal conclusion.

7 Q. (By Ms. Finger) I asked for his position on  
8 whether or not this agreement is binding and in  
9 effect.

10 A. I don't believe it is because I think  
11 Imperial may have breached terms of this agreement.

12 Q. But it's your position that at one time this  
13 promissory note governed the relationship between  
14 Imperial and A-Z; is that true?

15 A. No, that's not true. This wasn't -- this  
15:51:58 16 wasn't the only document that governed the  
17 relationship. This was a document, an agreement as  
18 part of the modified oral agreement and any other  
19 correspondence agreement that we had or I had with  
20 Imperial, so this isn't -- this isn't the -- this  
21 isn't the only exclusive controlling document, it's  
22 not -- it's not an integrated document that basically  
23 says all other oral conversations, promises,  
24 agreements no longer exist and this is the -- this is  
15:52:30 25 the only one, so I disagree with your.

1 MS. FINGER: Objection, nonresponsive.

2 Q. (By Ms. Finger) Mr. Ali, I didn't ask  
3 whether it was the only agreement. I'm asking if it's  
4 your position that this agreement was binding and in  
5 part it governed the relationship between Imperial and  
6 A-Z?

7 A. See now your question is different. First of  
8 all, it's two questions in one but now you're saying  
15:52:55 9 is it in part an agreement that governed as opposed  
10 to -- you didn't say in part earlier.

11 Q. Let me ask you this way: Did Imperial ever  
12 sign this agreement?

13 A. It's a promissory note so they don't have to.

14 Q. Is that -- is that your opinion or is that a  
15 fact? What's your basis for that?

16 A. Promissory notes are usually signed by the  
17 maker and don't have to be signed -- I mean, I've seen  
15:53:29 18 lots of promissory notes. I -- most of them that I  
19 see are only signed by the person that is promising to  
20 pay, not --

21 Q. Okay. In any event, Imperial did not sign  
22 this agreement, correct?

23 A. Imperial did not sign this agreement because  
24 they didn't have to but they agreed to it because I  
25 talked to Wayne about all the changes, sent him a copy

1 of the changes.

2 Q. Mr. Ali, if I can ask you to keep your  
3 responses to my actual question. I did not ask why  
15:53:59 4 Imperial may or may not have signed it, only that  
5 Imperial did not sign the agreement, and that's true,  
6 correct?

7 A. Imperial -- that's true, yes.

8 Q. Thank you.

9 (Exhibit No. 12 marked.)

10 Q. (By Ms. Finger) I'm going to show you what's  
11 he is been [-RBGD] may as Exhibit 12. Do you have  
15:54:24 12 that in front of you?

13 A. I do.

14 Q. This is a text message between you and wane  
15 about a Kay; is that true?

16 A. Wayne bat can he tell.

17 Q. Yes.

18 A. How does he pronounce it, I think it's Baugh  
19 can he tell.

20 Q. We'll go with that \*\*SPL\*\*?

15:54:54 21 A. All right. It appears to be a text message.

22 Q. Between you and Wayne; is that right?

23 A. Yes.

24 Q. I want to look at the text message in the  
25 center, it's dated March 13th, 2019; is that right?

1 A. Yes.

2 Q. And that text message is from Wayne to you;  
3 is that right?

4 A. That is correct.

5 Q. He says when you are serious, I, we can  
6 discuss. This agreement has never been finalized.

15:55:28 7 Did I read that correctly?

8 A. Yes.

9 Q. Do you know what agreement he was referring  
10 to there?

11 A. I think he was referring to a new agreement  
12 that they were attempting to get finalized that we  
13 weren't agreeable to.

14 Q. What agreement was that?

15 A. I don't recall exactly but I would have to go  
16 back to my text messages or my e-mails around that  
17 time frame to see what new agreement they sent over,  
15:56:01 18 but I'm fairly certain it's a new agreement. It's not  
19 referring to the agreement that we entered into when  
15:56:08 20 we first started doing business in 2015.

21 Q. When was A-Z first notified that Imperial  
22 acquired Harrison?

23 A. I can't remember or recall the exact date but  
24 I think there were -- I think we may have received  
25 some of their -- the form announcements that they sent

15:56:58 1 to all their customers and then obviously I had more  
2 specific questions and discussions with Wayne and Brad  
3 but I can't recall when that -- when that occurred. I  
4 do know -- I do know that the -- again, it wasn't like  
5 turning on a light switch for them, right, big  
6 companies take time to transition in their merger or  
7 whatever.

8 Q. When did you first receive an announcement  
9 that Imperial was acquiring Harrison?

15:57:29 10 A. I don't recall, but I do recall that that was  
11 part of the e-mail production that we provided in this  
12 case, it's an attachment and then I think I got  
13 another e-mail from Wayne or another letter from Wayne  
14 that was sent out to all their customers as well that  
15 included us. We had.

16 Q. How long before A-Z stopped doing business  
17 with Harrison was A-Z aware that Imperial had acquired  
18 Harrison?

15:57:58 19 A. Can you ask me that question again?

20 Q. How long before A-Z stopped doing business  
21 with Harrison was A-Z aware that Imperial acquired  
22 Harrison?

23 A. I don't recall.

24 Q. Did you first learn of the acquisition in  
25 approximately March 2015 when you started ordering

1 from Imperial?

15:58:24 2 A. I don't recall. Again, you know, we had a  
3 very good relationship with Harrison, we were  
4 endeavoring to have a very good relationship with  
5 Imperial, given the size and our account volume, our  
6 purchasing volume, our payment volume, I can't recall  
7 if Wayne or Brad told me in advance of any formal  
8 announcement that they gave to their other customers.  
15:58:56 9 I really can't recall. We weren't -- we weren't  
10 blindsided, that's for sure.

11 Q. ?

12 (Exhibit No. 13 marked.)

13 Q. (By Ms. Finger) I'm going to show you what's  
14 been marked as Exhibit 13. Have you seen this  
15:59:22 15 document before?

16 A. I have, yes.

15:59:59 17 Q. Do you recognize this as an e-mail sent from  
18 Wayne, and although it says it's sent to Wayne, the  
19 Bates label on this document is labeled with A-Z, so  
20 that means you or someone at A-Z received this  
21 document, correct?

22 A. Yes. I believe I received it and my guess is  
23 Wayne didn't just send it to himself, it was sent to  
24 him and then blind copied to all of Harrison's  
25 customers.

16:00:27 1 Q. Wayne sent this from a Harrison e-mail  
2 address; is that right?

3 A. Wayne sent this from a Harrison e-mail  
4 address, that is correct.

5 A. And.

6 A. That's correct.

7 Q. And Wayne also signed this as the president,  
8 didn't he?

9 A. Yes.

10 Q. And it says here in the second paragraph,  
11 effective immediately the Harrison distribution center  
12 in bossier city, Louisiana will report to the Imperial  
13 senior management team in Elmwood, Louisiana. Did I  
16:00:59 14 read that correctly?

15 A. Yes, you did. \*\*SPL\*\* that was Bossier  
16 \*\*SPL\*\*.

17 Q. You testified earlier that Wayne did not have  
18 any affiliation with Harrison as far as you know.  
19 Does this refresh your recollection as to that answer?

20

21 A. Yeah, somewhat.

16:01:30 22 Q. When did Wayne begin acting only for Imperial  
23 as opposed to Harrison, as far as you know, if ever?

24 A. As far as I'm concerned or as far as A-Z's  
25 concerned? It -- I mean, I don't know how many

1 e-mails I got from Wayne at Harrison Company.com, but  
16:01:59 2 if not most of the e-mails that I have received from  
3 Wayne come from his Imperial trading -- yeah,  
4 Imperial.com.

5 MS. FINGER: Objection, nonresponsive.

6 Q. (By Ms. Finger) At what point did you learn  
7 that Wayne was only working for Imperial and not also  
8 still representing Harrison?

9 A. As far as A-Z is concerned, be March, April  
16:02:31 10 of 2015 when we started doing business with Imperial  
11 and stopped doing business with Harrison.

12 Q. Did Wayne tell you that he was no longer  
13 affiliated with Harrison at that time?

14 A. I don't know if he told me at that time, but  
15 I mean, subsequent to that, Harrison doesn't exist and  
16 so he's the CEO of Imperial.

17 Q. How do you know that Harrison no longer  
18 exists?

16:02:58 19 A. Because it's Imperial -- the company's  
20 Imperial.

21 Q. Imperial acquired Harrison, do you understand  
22 that?

23 A. I believe so, yes.

24 Q. That doesn't necessarily mean Harrison, the  
25 company, ceases to exist, right?



16:03:29

1 A. Well, it depends, but in this situation when  
2 Imperial officially acquired Harrison, right, Harrison  
3 stopped existing at some point.

4 Q. What is your basis for that?

16:03:58

5 A. Hang on, let me finish my answer. So  
6 Harrison stopped existing at some point which was well  
7 after we stopped doing business with Harrison, right,  
8 and so my basis for that is who we were doing business  
9 with, who we were buying from, who were we, you know,  
10 who were we paying, who were we communicating with. I  
11 mean we weren't communicating with anybody at Harrison  
12 and it doesn't look like anybody at -- anybody at  
13 Harrison that existed at the time was reporting to  
14 Imperial senior management anyway, and I was dealing  
15 with Brad and Wayne with, that's Imperial.

16 Q. But you don't know whether Harrison still  
17 exists, do you?

16:04:29

18 A. I mean, I don't believe Harrison exists but  
19 for my purposes, for A-Z's purposes, Harrison doesn't  
20 exist for us because we don't do business with them.  
21 We stopped doing business with them, we paid them off,  
22 don't owe them any balances, invoices were paid off so  
23 as far as I'm concerned, whether Harrison exists or  
24 not has got nothing to do with me. They don't exist  
25 in our reality.

1 Q. Mr. Ali, I'm sorry, to cut you off, but  
2 please respond only to my question.

3 Do you know one way or the other whether  
4 Harrison ceases to exist as a business entity today?

16:04:55

5 A. Could you pull up an affidavit from Wayne or  
6 a declaration from Wayne in this case that has some  
7 information about a merger and how the company was  
8 going to cease to exist which was the company that  
9 Harrison -- that was Harrison? It was called  
10 something else and then that company's going away.

11 Q. It's really a yes or no question, Mr. Ali,  
12 whether you know whether or not Harrison ceases to  
13 exist?

16:05:27

14 A. I mean, if I could look at that document, I  
15 might be able to tell you right now, if not, no.

16 Q. Sitting here today you're not aware of  
17 whether or not that company still exists, are you?

18 A. Harrison doesn't exist for our purposes.

19 Q. Exist as a business entity, not from A-Z use  
20 Biff or whether A-Z does business as an entity, does  
21 Harrison still exist as a company, do you know yes or  
22 no \*\*\*CHECK?

23 A. If I could see that meant do, I might be able  
24 to tell you more do you have that document.

16:05:58

25 Q. Mr. Ali, sitting here today, without hearing

1 from a sworn statement from the owner of that company,  
2 do you know whether or not that company still exists?

3 A. Well, Wayne's not the owner, first of all so  
4 and I don't -- I don't believe that that company  
5 exists. If it does, it may just be a shell, right?

6 Q. [PWHAS] the basis for that, Mr. Ali, how do  
7 you have personal knowledge of that?

16:06:27 8 A. My personal knowledge is as of April, 2015,  
9 we started doing business with Imperial, terminated  
10 doing business with Harrison, paid off Harrison all  
11 open invoices within the two to two and a half month  
12 period and began paying Imperial, only dealing with  
13 [PHAOPL] folks, getting invoiced by Imperial, sending  
14 orders to Imperial, getting deliveries from Imperial,  
15 you know, working on our rebates and our credits and  
16:06:57 16 our offsets they still owe us for from Imperial,  
17 everything was Imperial, so whether Harrison  
18 physically existed or not is inconsequential to A-Z  
19 because A-Z did not owe or do any business with  
20 Harrison after the purchase in March of 2015 and the  
21 payments were made by June or July of 2015. At that  
22 point, that company no longer existed for us.

23 MS. FINGER: Objection.

24 A. .

16:07:29 25 MS. FINGER: Objection, nonresponsive.

1 THE REPORTER: Let's try to go one at a  
2 time, please \*\*\*CHECK.

3 Q. (By Ms. Finger) Mr. Ali, I'm showing you  
4 now, can you see what's been [-RBGD] may as Exhibit 14  
5 to your deposition, do you see it?

6 (Exhibit No. 14 marked.)

7 A. I do.

8 Q. And this is your declaration that you signed  
16:07:47 9 in support of summary judgment briefing; is that  
10 right? Is this your [TKHRA\*EURS] declaration,  
11 Mr. Ali?

12 A. I'm just reading through it real quick or  
13 skimming through it.

14 MR. HOLMAN: And just for the record, as  
15 counsel, I will represent to you that there is a typo  
16:08:58 16 in paragraph 3 as to the date, that first date there  
17 in paragraph 3.

18 MS. FINGER: That's rather convenient,  
19 Mr. Holman. You.

20 Q. (By Ms. Finger) I would like to direct your  
21 attention, Mr. Ali, to paragraph 3, once you've read  
22 through, and please allow me to ask my question first.

23 A. It's fine, I was thinking the same thing  
24 anyway because that date looked like it was off,  
25 September 1st.

1 Q. Right?

2 A. 2018.

16:09:29 3 Q. You had an opportunity to review this  
4 document before you signed it, though, didn't you?

5 A. I -- yes, I would have probably reviewed it  
6 and signed it.

7 Q. And you understand you signed this document  
8 under penalty of perjury, don't you?

9 A. Yes.

10 Q. And you understand that this document was  
11 filed with the court, don't you?

12 A. I believe so, yes.

13 Q. And so in paragraph 3 it states, on September  
16:09:58 14 1st, 2018, Imperial trading company, LLC Imperial  
15 acquired Harrison and took over the process of  
16 fulfilling all orders."

17 Is it your position that September 1st,  
18 2018 is when Imperial took over orders instead of  
19 Harrison with A-Z?

20 A. I don't think that that date's correct based  
21 on -- based on the information that I have in front of  
22 me right now.

23 Q. Why did you swear to it?

16:10:28 24 A. Again, I think it may have been just a typo  
25 or a mistake or something.

1 Q. But you had an opportunity to review it  
2 before you signed it, didn't you?

3 A. Sure, yes.

4 Q. This is wholly inconsistent with your  
5 testimony that A-Z stopped doing business with  
6 Harrison and started doing business with Imperial in  
7 March 2015; isn't that right?

8 A. I don't know if it's inconsistent or not, you  
9 know, because I think, if you look at the e-mail that  
16:10:58 10 Wayne sent, I think there was a transition period,  
11 right, where maybe Imperial owned Harrison and then it  
12 transitioned and closed the deal and took some time to  
13 transition, and so whether or not that happened  
14 officially on September 1st, 2018, but what I can tell  
15 you is that [KHUP] wholesale stopped doing business  
16 with Harrison at the end of March 2015 and started  
17 doing business with exclusively with Imperial trading  
18 \*\*SPL\*\*.

16:11:29 19 Q. September 1st, 2018, why is that date  
20 relevant at all in this lawsuit?

21 A. September 1st, 2018.

22 MR. HOLMAN: Counsel, objection, I  
23 represented to you that that was a typo. That date is  
24 actually the merger date between the companies, just  
25 the year is off but that September 1st is the actual

1 merger date between -- or acquisition date between  
2 Imperial and Harrison, but the year -- the year date  
16:11:56 3 is off but not the September 1st. I believe that.

4 Q. (By Ms. Finger) Again, Mr. Ali, is there any  
5 relevance of the date September 1st, 2018 to this  
6 lawsuit?

7 A. I don't know.

8 Q. (By Ms. Finger) To the best of your  
9 knowledge, is September 1st, 2018 relevant at all to  
10 this lawsuit?

11 A. I don't know.

12 Q. Are there any other statements that you swore  
13 to under penalty of perjury that were filed with the  
16:12:28 14 court in this case that you would like to correct at  
15 this time?

16 A. I would like to -- I'll probably review it  
17 and make sure there are no other typos. I know we  
18 were looking at something earlier and there was a  
19 discovery response that had a typo in it. It wasn't a  
20 substantive one, in my opinion, but it was a typo so  
21 before I tell you if there's any other declarations or  
22 affidavits or responses that I've sworn to, to be  
16:12:59 23 accurate under the penalty of perjury, I can certainly  
24 tell you that if this was a typo, it wasn't  
16:13:48 25 intentional.

1 (Exhibit No. 18 marked.)

2 Q. (By Ms. Finger) I'm going to show you now  
3 what's been [-RBLGD] may as Exhibit 18.

4 A. Can you go back to that, I just want to make  
5 a note of that affidavit or -- just tell me what  
16:13:59 6 exhibit was it, plaintiff's what?

7 Q. It is Exhibit 14?

8 A. Plaintiff's 14?

9 Q. Correct.

16:14:15 10 A. Thank you.

11 Q. Showing you now what's been marked as Exhibit  
16:14:35 12 18, do you see this document?

13 A. Yeah, I see it.

14 Q. Have you seen this document before?

15 A. A while back and I think I may have seen it  
16:15:59 16 in Barkat's depo the other day.

17 Q. And this is an e-mail exchange, correct?

18 A. It is.

19 Q. And the first e-mail is actually toward the  
20 top of the page because the second e-mail is short and  
21 the first e-mail is from Rodney Thomas to Barkat and  
22 yourself and it copies Brad Halpert and that the  
16:16:24 23 Harrison's as well as 10 the SB global.net, correct  
24 \*\*\*CHECK?

25 A. Yes.



1 Q. And the date on that e-mail is Monday,  
2 December 22nd, 2014, correct?

3 A. Yes.

4 Q. And I want to go down to the fourth paragraph  
5 in that e-mail, it starts with "These payments"?

6 A. Uh-huh.

7 Q. It says these payments are to be mailed  
8 weekly to Imperial-Bossier City office." Did I read  
9 that correctly?

10 A. It's Bossier City, but...

16:16:58 11 Q. Forgive me, Bossier City?

12 A. Close enough.

13 Q. Originally a New Yorker, forgive me my  
14 mispronunciations?

15 A. I don't blame you.

16 Q. So it says these payments are to be mailed  
17 weekly to Imperial Bossier City office; is that  
18 correct?

19 A. That's correct.

20 Q. And this e-mail was sent by Rodney Thomas who  
21 in his signature block indicates that he is with  
22 Harrison Company, correct?

23 A. That's what his signature block still says,  
24 yes.

25 Q. And his e-mail address is still with Harrison

1 Company as well, correct?

16:17:29 2 A. Yes, it is.

3 Q. And the top e-mail is a response from bear  
4 cat to that e-mail, correct?

5 A. Yes.

6 Q. And he says Rodney, will do. Thank you and  
7 wish you-all happy holidays, correct?

8 A. Yes.

9 Q. In December 2014, A-Z had still not placed an  
10 order with Imperial, correct?

16:17:59 11 A. I don't believe so.

12 Q. You testified earlier that A-Z didn't start  
13 placing orders with Imperial until the first week of  
14 April 2015; isn't that right?

15 A. Yeah, or the last week of March for the first  
16 week of April's deliveries.

17 Q. You also testified that any payments that  
18 were owed to Harrison were sent to Harrison, right?

19 A. The no. I said that they were made payable  
20 to Harrison.

21 Q. But this says that payments were to be mailed  
16:18:28 22 to Imperial. Why would that have been?

23 A. A couple reasons why I can guess, but the  
24 payments weren't made to Imperial. They were mailed  
25 to Imperial's Bossier City office and I suspect that

16:18:58 1 they probably were starting their transition already,  
2 right, in 2014, so Harrison was still there in Bossier  
3 City but they're calling it their Imperial Bossier  
4 City office, so as things were transitioning from  
5 Harrison to Imperial, that's what I'm guessing.

6 Q. Did you ever ask Harrison why payments were  
7 to be mailed to Imperial?

16:19:27 8 A. No, because I think we already knew that  
9 there was a transition going on, right? They were --  
10 they were transitioning, they were going to acquire,  
11 merger, whatever you want to -- whatever they had up  
12 their sleeves, they were going to do, and this is just  
13 part of the process, right, because Rodney, I don't  
14 know if Rodney ever got an Imperial e-mail address. I  
15 know Brad didn't because Brad alBritten didn't because  
16 Brad pen at that grass took over the CFO role, I think  
17 Ron hunt, be Wayne's e-mail had retired, was going to  
18 retire, it was just a transition \*\*\*CHECK.

19 (Exhibit No. 4 marked.)

16:19:59 20 Q. (By Ms. Finger) I'm going to show you what's  
21 been marked as Exhibit 4. This is a very long  
22 document so I will ask that you, before you scroll  
23 through, just take note of the date of the first page,  
16:20:18 24 and we can go through to the date of the last page.

16:20:43 25 A. All right. What we got here? Okay, you

1 wanted me to make a note of the date. ?

2 Q. Correct. This should be invoices from May  
3 2015 through September 2015, correct?

4 A. I don't know. I haven't gone through 213  
5 pages of it.

6 Q. I'll represent to you that the ones in the  
7 middle fill in the missing gaps but if you can look at  
8 the first page, we're looking at September 28th, 2015  
16:21:28 9 and then the last invoice is May 4th, 2015. Are you  
10 with me?

11 MR. HOLMAN: Excuse me, Counsel, just  
12 quickly, have these been produced to counsel.

13 MS. FINGER: Yes. Bates label -- there's  
14 a Bates label on the bottom of each page, actually,  
15 this one begins with Harrison 005055.

16 MR. HOLMAN: Okay. I see it now, I had  
17 my -- I had mine expanded too much.

18 A. And tell me again the dates.

16:21:59 19 A. The first invoice I'm looking at here is  
20 9-28-15?

21 Q. (By Ms. Finger) Correct.

22 A. And you're saying they're not in  
23 chronological order.

24 Q. They are. If you scroll all the way to the  
25 bottom, you should see May 4th, 2015?

1 A. May 2000 what?

16:22:23 2 Q. '15?

3 A. Yeah, I -- these obviously are not the actual  
4 invoices. These are electronic copies of these  
5 invoices or an electric -- an electronic version of  
6 these invoices because they don't look exactly like  
7 the invoices that I remember seeing.

8 Q. These are not the invoices that A-Z received  
16:22:56 9 in 2015?

10 A. Oh, because we're still in '15. I jumped  
11 ahead to -- my bad. I was already in 2019 because  
12 these invoices changed, right, from '15 to '16 by the  
13 time we got to '19, they didn't look like this.

14 Q. Sure. But in 2015 --

15 A. Yeah, they were still -- they were still  
16 transitioning, yes, yes, this is good, I'm with you.  
16:23:27 17 Hold on. 5, 5, 4, 15 so there's still a month's of  
18 invoices, the April, you don't have shows April's in  
19 this batch.

20 Q. Not in this exhibit.

21 A. Okay. But there should have been April ones  
22 also with Imperial, I think. Am pretty sure.

23 Q. I can't say either way, I'll just represent  
24 to you that for now we're going to look at the May  
25 through September ones for 2015.

1 A. Okay.

16:23:57 2 Q. When A-Z began doing business with Imperial,  
3 it was issued account numbers that were different from  
4 its account numbers with Harrison; is that right?

5 A. Yes.

6 Q. Do you know why?

7 A. Because we were doing business with Imperial  
8 and Imperial has their own naming convention and we  
9 were being set up as a new account for Imperial, so we  
10 would just naturally get whatever the next account  
11 numbers are.

16:24:29 12 Q. And if you'll go with me to the first page  
13 looking at the September invoices -- well, actually,  
14 if you're still at the bottom, you can see there in  
15 May 2015 in the center, it says Harrison customer  
16 number, right?

17 A. Yes. That Harrison customer number reference  
18 was on the Imperial invoices for about six, nine, ten,  
19 12 months, something like that, and then I think when  
16:24:58 20 they completed all their transition stuff, then the  
21 Harrison customer number went away.

22 Q. Okay.

23 A. So if you look at the 2019 invoices, 2018  
24 invoices, '17 invoices and I think part of '16  
25 invoices, it no longer references a Harrison customer

1 number.

2 Q. We'll get there, Mr. Ali, but for now, May  
3 2015, there's still a Harrison customer number listed  
4 here, right?

5 A. As a reference, it's not the customer number  
6 for the invoice.

7 THE VIDEOGRAPHER: Ms. Ninger.

16:25:29 8 Q. Did Imperial ever tell you why it was  
9 referencing the Harrison customer number on its  
10 invoices?

11 A. Because they were just -- they were still  
12 transitioning, right, they were transitioning.

13 Q. What about in September 2015 when A-Z,  
14 according to your testimony, had fully paid off its  
15 Harrison balance, did Imperial represent to you why  
16 the Harrison customer number was still listed on the  
17 invoices?

18 A. Because.

19 MR. HOLMAN: Objection, the date is  
20 wrong, you mentioned September 2015.

21 Q. (By Ms. Finger) Correct, September 2015 is  
16:25:58 22 the first page of this exhibit. Let's scroll up  
23 there, Mr. Ali. Are you there?

24 A. You're talking.

25 Q. Correct?

1           A. I understand your question and Harrison was  
2 completely paid off by then already, , well before  
3 then and the reason the Harrison customer number it  
4 was explained to me was still on there is because they  
5 were still transitioning.

6           Q. Who explained that to you?

16:26:26

7           A. Their transition -- their transition was  
8 taking a long time, and I can appreciate that, I mean,  
9 it's -- it's a giant company. I mean, Imperial is a  
10 bow [HAOEPL] he tell of a company, they do billions of  
11 dollars' worth of business, right, and for them to  
12 transition a company that they acquired or merged and  
13 then were getting rid of, there's a lot of moving  
14 parts and I think this is just one of them \*\*SPL\*\* bee  
15 [HAOEPL] he tell \*\*SPL\*\*.

16           Q. Who told you why the Harrison customer number  
17 was still listed on the invoices?

18           A. Wayne Baugh can he tell.

19           Q. When did he tell you that?

16:26:59

20           A. Probably at some point when I asked him why  
21 that number was still on there or looked at the  
22 invoice for the first time.

23           Q. You don't specifically remember asking him  
24 that though, do you?

25           A. I'm pretty sure we talked about that because



1 it was sort of unusual at first, right, and then it  
2 dropped off at a later date just like he said it  
3 would.

4 THE VIDEOGRAPHER: Ms. Finger.

5 MS. FINGER: Yes.

6 THE VIDEOGRAPHER: I wanted to give you a  
7 heads-up, we've got about 8 minutes left before we  
8 need to make an immediate change.

16:27:29 9 MS. FINGER: Okay, great, thank you.

10 A. But we were talking about the customer  
11 number, do you want to finish that conversation  
12 because there's a customer number that A-Z has with  
13 Imperial, the Dallas warehouse was assigned the 95750  
14 number, and that's the customer number for A-Z  
15 wholesale Dallas with Imperial.

16 Q. (By Ms. Finger) Was it your understanding  
16:27:56 17 when you received a customer number from Imperial that  
18 this new account had a zero balance from the  
19 beginning?

20 A. The yes, it had a zero balance from the  
21 beginning. We didn't owe Imperial any money as of  
22 March 31st, 2015. When we got our first invoice in  
23 April, that's when we accrued our first balance with  
16:28:46 24 Imperial.

25 MS. FINGER: We can take a break now, if

1 that's okay with you, Mr. Ali, so we can swap out the  
2 video before I put up the next exhibit. Is that all  
3 right with you.

4 A. I would like to keep going I'm having way too  
5 much fun to stop now.

16:28:59 6 Q. We can keep going, I I'm just asking for the  
7 video to?

8 A. Yeah if it's a great place and let them make  
9 their switch, .

10 MS. FINGER: We'll take five minutes and  
11 come back.

12 THE VIDEOGRAPHER: Off the record; the  
13 time is 4:29 p.m.

16:29:17 14 (Recess 4:29-4:44.)

15 THE VIDEOGRAPHER: \*ck ALI 4 STARTS ON  
16 201 Back on the record; the time is 4:45 p.m.

17 Q. (By Ms. Finger) We just came back from a  
18 break, Mr. Ali. You understand that you're still  
19 under oath, correct?

20 A. Yes. And if it's okay with you when we were  
16:45:30 21 off the record I mentioned that I wanted to clarify  
22 something about my testimony on the record.

23 Q. Yes, please do?

24 A. Just real quick, when we were talking about  
25 the modified oral agreement and what that refers to,

16:45:57 1 it certainly refers to the modified oral agreement  
2 that we had with with Imperial when we first started  
3 doing business with them, but we also had a series of  
4 modified oral agreements throughout our four-year  
5 relationship, so I believe that that modified oral  
6 agreement, in response to those discovery questions,  
7 should refer to the series of modified oral  
8 agreements, not just that sort of one snapshot of the  
9 modified oral agreement.

10 Q. Sorry, we had some feedback. I don't hear it  
11 anymore.

12 When you refer to it as a modified oral  
13 agreement, that initial agreement with Imperial, it  
14 wasn't modified, so to speak, right, it was just your  
16:46:30 15 initial agreement with Imperial; is that fair to say?

16 A. No, because I think -- I think we had -- we  
17 had an agreement that we would buy product from them  
18 and that they would give us certain amount of terms  
19 but that wasn't modified right away. It wasn't the  
20 \*\*\*CHECK the standard agreement that Imperial enters  
21 into with a new customer.

22 Q. So what were the initial terms that you  
23 entered into with Imperial before any modifications  
24 were made?

16:46:57 25 A. I believe the terms that we entered into was,

1 I think it was one month was the payment terms but we  
2 knew we weren't going to be there right out of the  
3 gate, right, so we were able to modify that so that we  
4 could get closer and closer. I think also the -- the  
5 credit limit, I can't remember, you know, if we had  
6 started off with like a \$3 million or two and a half  
7 million dollar credit limit but the goal was to try to  
16:47:27 8 reduce that amount, so, again, those series of  
9 changes, those modified oral agreements throughout the  
10 four years, five years we did business with Imperial  
11 is -- is what that -- I think that term refers to.

12 Q. Okay. My subsequent question though was what  
13 the terms were that A-Z agreed to with Imperial in  
14 their initial conversation before any modifications  
15 were made. So you mentioned that it was going to be  
16 one month payment?

16:47:59 17 A. Yeah.

18 Q. Right?

19 A. Yeah, one month payment, the credit limit  
20 \*\*\*CHECK would be set at whatever the sort of the  
21 number was that we were going to come out of at the  
22 gate of, you know, eight to ten weeks worth of orders  
23 before the first payment was going to be made, that  
24 Barkat would no longer have a personal guaranty;  
16:48:27 25 that -- I think there were some pricing discussions or

1 agreements that we had, some discounts and rebates  
2 that we would be getting that were different from what  
3 we were getting with Harrison but I would have to go  
4 back and look at my e-mails or some notes that I would  
5 have in reference to what those were.

6 Q. When did you first modify the payment term,  
7 the one \*\*\*CHECK?

8 A. Probably when we got to a month, right when  
9 we got to the first month and we had a general idea of  
10 what our volume was, we were able to kind of predict  
16:48:59 11 out that in another month we'll be here and that we  
12 would probably be somewhere between eight to ten weeks  
13 is what I recall, that's why that number eight to ten  
14 weeks keeps coming up in my head.

15 Q. How many times would you say that you  
16 modified that term with Imperial?

17 A. I think we modified that a couple of times  
18 because the goal was to go from like ten weeks to nine  
19 weeks to eight weeks, right, to continue to try to  
16:49:30 20 reduce the -- the credit terms and try to bring it  
21 into about a month or six weeks, that was the goal.

22 Q. You don't recall a specific number of times  
23 you entered into an agreement to change that term?

24 A. Yeah, I would say at least -- we probably --  
25 we discussed it several times and as we got within a

1 certain, you know, payment term and the goal was to  
2 try to keep it there, right, so modified, let's say  
16:49:58 3 let's keep it at ten weeks now or if we were at 12  
4 weeks when we started, let's keep it at 11 weeks, now  
5 let's keep it at ten weeks and continue to reduce it.

6 Q. But you can't point to a specific number of  
7 times that A-Z?

8 A. No.

9 Q. And Imperial reached a new agreement on how  
10 that term would be modified, can you?

11 A. No, not -- not specifically on how many times  
12 we modified the -- the term, the payment term of the  
13 agreement, no.

14 Q. And it was always you discussing that term  
15 with either Wayne or Brad when you entered into those  
16:50:30 16 agreements; is that right?

17 A. Yes, they're the only ones that had the  
18 authority at Imperial and I was the only one that had  
19 the authority at A-Z to really be handling that.

20 Q. You also mentioned that A-Z had an initial  
21 credit limit during the first agreement with Imperial.  
22 How many times was that term modified?

23 A. That was probably modified more regularly  
24 because the credit limit was -- the goal was to  
16:50:55 25 continue to reduce that credit limit, right, so as we

1 reduced the credit -- the balance, right, and if we  
2 were ever to have ordered more than the payments were  
3 the subsequent week, we'd have to go back and modify  
4 and say, okay, how are we going to handle the extra  
5 \$20,000 in purchases that we did last week versus the  
6 payments that were already sent for \$20,000 less --  
7 less than what we expected to order.

8 Q. You can't --

16:51:28

9 A. Or if we got like a -- like if we got a  
10 forceout, right, promotional product, those would  
11 get -- those would get forced out from Imperial to us  
12 to send to our customers, those are items that weren't  
13 ordered by us specifically, but were forced out to us  
14 because our customers had ordered them and Imperial  
15 was our **[#134R50EUR]**, so we would get that forceout  
16 automatically. So if I sent \$200,000 worth of  
17 payments and I ordered 190 thousand dollars' worth of  
18 product, that balance would have reduced by \$10,000  
19 but if somehow that week there were promotions that we  
20 were getting that were getting forced out, and that  
21 was \$20,000 worth of promotions, then it looked like  
22 on its face that the balance had gone up by 10,000,  
23 right, so then we'd have to talk and we'd say, oh,  
24 those are promotions, that's fine, that wasn't  
25 something we ordered, and then that would be fine.

16:51:58

1                   If it was something that we had ordered,  
16:52:27 2           then we would try to figure out how hey how do we  
3           bring that number down by 10,000 or whatever it was.

4           Q.   My question was approximately how many times  
5           was that credit limit modified? You can't tell me a  
6           specific number, can you?

7           A.   No, I can't tell you an exact number.

8           Q.   And those agreements always took place via  
9           conversation between you and either Wayne or Brad; is  
10          that right?

11          A.   Primarily, why he. Yes.

16:52:57 12          Q.   You say primarily, how else would those  
13          agreements have occurred?

14          A.   You know, if for whatever reason it was like  
15          a holiday and Brad was already out of the office, he  
16          may have asked sandy to call me or e-mail me about  
17          that and sandy would say, hey, your balance went up  
18          this week and I can say, organizations it was related  
19          to promotions and he'd be like all right, or he calls  
20          me and says hey Brad says your balance went up by  
21          10,000, please send an extra \$10,000 for next week,  
16:53:28 22          okay, got it. So more like relaying the message as  
23          opposed to being a decision maker. I think sandy --  
24          sandy did a little bit of that. I can't remember if  
25          there was anybody else. Again that was for whatever



1 reason, Brad was out of town, it was a holiday or he  
2 couldn't get ahold of me, he asked somebody in his  
3 office to give me a call.

4 Q. Other than the e-mails and the invoices, did  
5 you ever put any of these modifications into a  
16:54:00 6 writing?

7 A. I don't recall. Again, I could probably look  
8 through the production to see if there is anything,  
9 but every time there was an oral modification, was  
10 that oral modification memorialized in writing? No.  
11 That just wasn't standard operating procedure on  
12 either side.

13 Q. You say on either side. Do you mean that  
14 Imperial never put any of its agreement modifications  
15 with any customer in writing?

16:54:29 16 A. I'm saying with us. I don't know how they  
17 dealt with their other customers, but between --  
18 between Imperial and A-Z Wholesale, every oral  
19 modification to our agreement wasn't memorialized in  
20 writing.

21 Q. Did you ever ask to put any of those  
22 modifications in writing?

23 A. No.

24 Q. You weren't at all concerned that none of  
25 those payment terms were put into a writing?

16:54:59 1 A. No, I mean, again, we had a very good,  
2 healthy relationship with Imperial until things went  
3 sideways there in 2019, I mean, you know, in any  
4 business relationship when when you're dealing with  
5 money and you're dealing with product, there's ups and  
6 downs, there's good days and bad days but we always  
7 found a way to work through them, right? You  
8 testified earlier.

9 A. Until you lawyers get involved and then it  
16:55:28 10 gets tricky.

11 Q. You testified earlier that as of March 31st,  
12 2015, A-Z did not yet owe Imperial any money; is that  
13 right?

14 A. That's correct. We hadn't -- we hadn't  
15 bought any product from Imperial as of March 31st, I  
16 think it was, 2015, so we didn't owe Imperial any --  
16:55:55 17 any money in relation to the invoices.

18 Q. I'm going to show you now what's been [-RBGD]  
19 may as Exhibit 29 to your deposition. I'll give you  
20 an opportunity to review, but did the document pop up  
21 in front of you?

22 A. Yes.

16:56:27 23 Q. Okay. Have you seen this document before?

24 A. I'm sure I have at some point.

25 Q. And this is an e-mail sent by Brad P. at

1 Imperial trading.com; is that right?

2 A. Yes.

3 Q. Do you understand Brad P. to be Brad  
4 Prendegraft that we've been discussing \*\*SPL\*\*?

5 A. Yes.

16:56:58 6 Q. And this e-mail was sent to you and Barkat,  
7 CCing others at Imperial and Harrison; is that right?

8 A. It was CCed to people with -- people from  
9 Imperial and people that still had Harrison e-mail  
10 addresses but I don't know if they were, at that time  
11 with Harrison or they were with Imperial, that, again,  
16:57:30 12 is.

13 Q. Rodney Thomas?

14 A. It's gotten, Rodney -- rod any was still, I  
15 guess, our sales rep with Imperial, I guess, at that  
16 time.

17 Q. And this e-mail is dated October 30th, 2015;  
18 is that right?

19 A. That's correct.

20 Q. And this says, balance decreased by  
16:57:48 21 \$134,522.08 to \$3,003,712.43, correct?

22 A. Yes.

23 Q. If I can read numbers correctly.

24 A. Okay \*\*\*CHECK.

25 Q. And so it's your understanding that this

1 e-mail was sent from Imperial, correct?

2 A. Yes, and that's an Imperial balance there.

3 Q. It says here that there's an Attachment A-Z  
4 which you'll see if you turn to the remaining pages of  
5 this document. Do you see that?

16:58:30 6 A. Yes, I do.

7 Q. And if you'll turn to the very last page,  
8 you'll see October 30th, 2015, which is the date that  
9 e-mail was sent, correct [STKPWHREUT] and?

10 A. Yes.

11 Q. And all the way at the bottom we see the  
12 total of approximately \$3 million that Brad indicated  
16:58:56 13 in his e-mail, correct?

14 A. Hang on. Yep.

15 Q. If you'll turn to the third page of this  
16 document, actually, let me -- it's missing some  
17 columns so let's start with the second page of the  
18 document, if you see all the way on the left-hand side  
19 there's a column that says A-Z wholesale. Do you see  
20 that?

21 A. Uh-huh, yes.

16:59:30 22 Q. And it's purchases, payments applied and the  
23 last one in that category is total balance. Do you  
24 see that?

25 A. Yes.

1 Q. And so do you understand that those columns  
2 apply respectively to the following pages, even though  
3 it doesn't appear?

4 A. Yes, the headings.

5 Q. Correct.

6 A. Yeah.

16:59:59

7 Q. So turning now to the second page, these are  
8 columns dated February 27th, 2015 for intervals  
9 through May 8th, 2015; is that right?

10 A. That's correct.

11 Q. And if we look at April 3rd, 2015, right in  
12 the center there, the past due balance listed is  
13 approximately one and a half million dollars; do you  
14 see that?

17:00:29

15 A. I have to go back and check your headings.

16 Q. It should be?

17 A. Yes \*\*SPL\*\* one of those dates was wrong  
18 \*\*SPL\*\*.

19 A. I see that.

20 Q. How did A-Z have a past due balance of a  
21 million and a half dollars to Imperial on April 3rd,  
22 2015 if it had not started doing business with  
23 Imperial until after March 31st, 2015?

17:00:59

24 A. That's a very good question and it's just a  
25 sloppy spreadsheet. That balance there of 1.563 --

1 actually, I would rather go to the one before it, but  
2 let's just say the 1.481, 1.25, right, on March 27th,  
17:01:23 3 2015, that is a Harrison balance and so when you look  
4 at April 3rd, 2015, I don't know if we had received  
5 our first delivery by then by -- from Imperial but I  
6 think so, and so the ending balance, according to this  
17:01:58 7 spreadsheet, and again, this is a spreadsheet that was  
8 done by Imperial's folks, the ending balance with --  
9 with Harrison was \$2.194,440 at the end of March, and  
17:02:27 10 so that amount was paid off, let's see where the  
11 payment is applied is the second one, so I'm just on  
12 the average, if you take \$300,000 payment in about  
13 seven weeks, Harrison was paid off.

14 Q. Why is the Harrison balance reflected  
15 together with your Imperial balance?

17:02:59 16 A. I don't -- again, I think it's just a -- it's  
17 a sloppy spreadsheet. There should have just been two  
18 spreadsheets. There should have been one with  
19 Harrison, right, that showed the payments being  
20 applied, balance Turk to zero, the new purchases with  
21 Imperial, that balance growing \*\*SPL\*\* turning \*\*SPL\*\*  
22 right, and then eventually have gotten to the point  
23 where no more payments are being applied to Harrison,  
24 payments -- everything's done, and the payments are  
17:03:29 25 then being applied to Imperial so it should have been

1 two separate spreadsheets but not very difficult to  
2 take the data and convert it into two separate ones.

3 Q. You didn't ask Brad at Imperial to do that  
4 and create two separate spreadsheets though, did you?

5 A. No, I didn't. It wasn't necessary because I  
6 can tell what's going on here.

7 Q. But you didn't ever ask him to clarify what  
8 balance was owed to Harrison and what amount was owed  
9 to Imperial at any given time?

10 A. Again, the balance to Harrison was paid off,  
17:03:59 11 looks like based on these payments, probably around  
12 seven weeks, maybe eight weeks, which is kind of the  
13 same eight to ten week terms that I've been talking to  
14 you about and then.

15 Q. If we turn to the next page, we'll be in the  
16 June, July 2015 range which is when you testified  
17 earlier that you believed Harrison was paid off?

18 A. Yes.

19 Q. Looking at this?

20 A. Definitely by then because you're looking at,  
17:04:27 21 you know, payments of 341000, 36 5,000, on the page  
22 above it, everything's in the pretty much \$300,000.

23 Q. All of those payments are not significantly  
24 higher though than the purchases made in those months,  
25 are they?

1 A. Yes.

2 Q. Let's look at May 22nd, 2015?

3 A. Oh, no, because, let me before you go there,  
17:04:58 4 let's in the interest of time, if you look at look at  
5 the -- look at the last one.

6 Q. What's the date?

7 A. No, no, I'm saying look at the last block, so  
8 you're just looking at A-Z wholesale.

9 Q. Correct?

10 A. Right, but they were treating A-Z wholesale  
11 and diamond, Top 20, all sort of one company for  
12 their -- for our agreement purposes.

13 Q. Okay.

14 A. So if you look at the last batch, right,  
17:05:27 15 generally you'll see payments are higher than the  
16 purchases, there's obviously some differences in  
17 certain places and again, that just kind of ebbed and  
18 flowed and we modified as we went along, but generally  
19 you would see, like I'll take you up to \*\*SPL\*\*  
20 eastbounded \*\*SPL\*\* ebbed \*\*SPL\*\* where can I take you  
21 here, yeah, generally.

22 Q. Let's -- let's go through some of these dates  
17:05:56 23 together. So on April 3rd, 2015, [-BS] [PR-FPLS] were  
24 a little over 350,000, correct, but the payments were  
25 only 340,000 and change; is that right?



1 A. Ee -- that's what this says.

2 Q. And then on April 10th also we have \$380  
3 thousand and change in purchases but less than 350 in  
4 payments; is that right?

5 A. Yeah, and you -- and again, you make a very  
17:06:28 6 good point. I think it also was when this report was  
7 coming out and when the payments were coming in and  
8 when the orders were being invoiced, Brad and I talked  
9 about this a few times because it would seem like  
10 sometimes that the -- that the balance was going up  
11 when it really wasn't. They were already -- they had  
12 already invoiced us for purchases and hadn't applied,  
13 say, for example, one payment that they still had,  
17:06:57 14 right, so if the report came out on Friday morning and  
15 they hadn't deposited the check from Friday yet, it  
16 wasn't reflected in that balance so there's a few  
17 sometimes, especially when we were doing this early,  
18 that we were going through this and I would get a call  
19 and say hey your balance went up, I was like there's  
20 no way the balance went out up, we sent five checks  
21 for \$450,000 and we only bought \$300,000 there's no  
22 way that it could have gone up, and he's like yeah, we  
23 didn't reflect that in the spreadsheet.

24 Q. Well, this report goes all the way through  
17:07:30 25 October 2015 and we're looking all the way back in

1 this same spreadsheet to March and April and in fact  
2 we're not necessarily looking at the total balance and  
3 whether that went up, we're looking at purchases made  
4 and payments applied and in fact, for several months  
5 through the end of at least May 2015 A-Z was making  
6 payments that were less than the purchases they were  
7 making; is that true?

8 A. Yeah, but the overall balance was going down,  
17:08:02 9 you have.

10 Q. \*\*\*CHECK?

11 A. You've got to look at diamond and Top 20 as  
12 well.

13 Q. But how much of these payments were being  
14 paid towards the balance that originally owed to  
15 Harrison?

16 A. So the payments that were being made were  
17 being applied to Harrison first.

18 Q. How do you know that?

19 A. All -- because that's how -- that's how  
20 the -- that's how we stay within our terms.

21 Q. But the Harrison balance is reflected in this  
17:08:30 22 spreadsheet, isn't it?

23 A. That's what I'm saying, this is a very, very  
24 sloppy spreadsheet. There should be two [SPHRAEUT] --  
25 we can actually take this, we can actually take the

1 data in this spreadsheet and split it up into two and  
2 show you very clearly when the balance was zero with  
3 Harrison and what the balance would have been on that  
4 day with Imperial for all three of those warehouses or  
5 whatever they are.

17:08:59

6 Q. Do you have a better spreadsheet prepared  
7 that reflects the accounting of the difference between  
8 your accounts with Harrison and Imperial?

9 A. I do believe that somebody in our office  
10 probably does because we kind of kept a track of it as  
11 well, we don't just rely on other people's  
12 information.

13 Q. And was that produced in this litigation?

14 A. I don't know if it was. I'd have to go back  
15 and look to see if it was produced.

16 Q. How did you keep track internally of what  
17 amounts were being paid to Harrison and what amounts  
18 were being paid to Imperial?

17:09:29

19 A. Based on who we were writing the payments to.

20 Q. Did you have separate accounts in A-Z's  
21 internal accounting system that reflected how  
22 Harrison's balance was being paid down versus  
23 Imperial's?

24 A. Are we had, from what I recall, ing we  
25 generally have spreadsheets on all of our suppliers or

17:09:58 1 at least the major suppliers, right, the larger  
2 suppliers, and where we are with them on their  
3 balances, what checks were paid, you know, what was --  
4 what was reduced, what purchases were made. I mean we  
5 generally try to keep a decent track of that stuff.

6 Q. Was it your understanding that your account  
7 balance from Harrison was going to transfer over to  
8 your account with Imperial?

9 A. Our account balance from Harrison  
10 transferring over to Imperial, no.

11 Q. Correct?

12 A. No.

17:10:28 13 Q. But did you ask Brad why these balance  
14 reports were reflecting the Harrison balance if it was  
15 unrelated to Imperial?

16 A. Well, because if you look, this started  
17 before we even started doing business with Imperial.  
18 It goes back to 2014.

19 Q. Yeah, why is that?

20 A. Because those are Harrison's balances.

21 Q. But this spreadsheet came from Imperial,  
22 didn't it?

23 A. Not originally, it came from Harrison  
24 originally.

25 Q. How do you know that?

17:10:57 1 A. Because I believe Brad Albritton used to send  
2 these \*\*SPL\*\*.

3 Q. He used to send them to you weekly, right?

4 A. I think so, yeah.

5 Q. And so you never asked Brad at Imperial to  
6 send you new spreadsheets on behalf of Imperial,  
7 right?

8 A. No because he was -- he -- no, not at all. I  
9 knew exactly where these numbers are coming from.  
10 It's no -- it's not rocket science.

11 Q. And this was just a continuation of the  
17:11:30 12 Harrison spreadsheet that you used to receive, right?

13 A. This is -- so you've got Harrison's balances  
14 all the way up until 3-27-15 so the overall balance  
15 for A-Z was 2.19 4 million, right, and if you look at  
17:11:53 16 the payments made by A-Z to Harrison during the  
17 subsequent eight-week period, my guess is that will  
18 probably add up pretty close to 2.19 4 million, and  
19 again, these are rounds -- these numbers are rounded,  
20 they're not to the penny but I'm guessing the last  
21 check that was paid towards the Harrison balance will  
22 be an exact amount to clear that last balance.

23 MS. FINGER: Objection, nonresponsive.

24 Q. (By Ms. Finger) Was this spreadsheet a  
25 continuation of the spreadsheet that you received from

17:12:32 1 Harrison?

17:12:33 2 A. It should be, it should be.

3 Q. I'm showing you now what's been marked as --  
4 actually, we're not going to go through that one. Is  
17:13:27 5 it A-Z's position that to the extent any outstanding  
6 balance is owed, it's owed to Imperial, not to  
7 Harrison; is that right?

8 A. Yeah, if there are any balances owed, they  
9 would be to Imperial, not to Harrison.

10 Q. A-Z does not contest the amount that Harrison  
11 claims is owed, right?

12 A. Sure we do.

13 Q. How so?

14 A. Because we don't owe Harrison anything so  
15 we're contesting that amount.

16 Q. And what is your basis for that allegation?

17:13:59 17 A. Because the products purchased and the  
18 invoices that are outstanding are due to Imperial  
19 minus any offsets, credits, [-BS] returns, expired  
20 goods that we still have and any other counterclaims  
21 for them breaching the contract with Imperial breached  
22 with us, but that exists within Imperial not Harrison.

17:14:29 23 Q. I'm talking only to the dollar amount. Do  
24 you dispute Harrison's accounting of the balance that  
25 remains regardless of whether it was owed to Harrison

1 or Imperial?

2 A. I can't answer that question because it's not  
3 owed to Harrison so I am disputing that amount, yes.

4 Q. If Imperial filed this lawsuit, would you  
5 contest the dollar amount that Harrison calculated as  
6 outstanding from A-Z?

7 A. Absolutely.

8 Q. Why?

9 A. Because it doesn't count the offsets, the  
17:14:58 10 rebates, the credits, the returns and any  
11 counterclaims that we have against Imperial so I would  
12 certainly contest that amount.

13 Q. Is it your position that A-Z owes any amount  
14 to Imperial?

15 A. I don't know. Until there's a proper  
16 accounting done, I couldn't tell you who owes who, but  
17 we've got significant damages at this point that have  
18 accrued against Imperial.

19 MR. HOLMAN: I believe Imperial has  
17:15:30 20 repudiated the debt and said the debt is owed to  
21 Harrison in an affidavit.

22 MS. FINGER: Objection, Mr. Holman, I  
17:15:38 23 haven't asked a question to the witness. \*\*\*CHECK one  
24 of the two guys said something and I didn't hear.

25 A. I just sustained your objection, by the way.

1 Q. (By Ms. Finger) Appreciate it.

2 A. You're welcome.

3 Q. (By Ms. Finger) Okay. I'm going to show you  
17:16:25 4 what's been marked as Exhibit 32.

5 (Exhibit No. 32 marked.)

17:16:58 6 Q. (By Ms. Finger) Do you see Exhibit 32 in  
7 front of you, Mr. Ali?

8 A. I do. I just rotated it and trying to blow  
17:17:08 9 it up so I can see it. Okay.

10 Q. I want to look at the individual totals for  
11 each Dallas and Waco. Let me back up. Have you ever  
12 seen this document before, Mr. Ali?

13 A. I don't know if I recall seeing it or not.

14 Q. Did you from time to time receive trial  
17:17:56 15 balances from Harrison or Imperial?

16 A. I don't recall if I did or did not.

17 Q. If we can take a look at the first total for  
18 A-Z wholesale Dallas, it says \$1,363?

19 A. Sore ex-us [SKAO] me, sorry, I want to  
20 correct my testimony.

21 Q. Sure.

22 A. I do recall receiving balances from Imperial.  
17:18:28 23 I don't know if they were these trial balances but  
24 they're balances that I would receive on a weekly  
25 basis that wasn't that sloppy spreadsheet \*\*SPL\*\* that



1 was 1 million 3 \*\*SPL\*\* that we were talking about  
2 earlier.

3 Q. This one is dated May 31st, 2018. Do you see  
4 that?

5 A. Yes, ma'am.

6 Q. And the total for A-Z Dallas of May 31st,  
7 2018 here says 1,368,925.67. Do you see that?

8 A. Yes, ma'am.

17:18:59 9 Q. And for Waco it says 1,038,500.42. Do you  
10 see that?

11 A. Yes, ma'am.

12 Q. ?

13 (Exhibit No. 31 marked.)

14 Q. (By Ms. Finger) I'm going to show you now  
15 what's been marked as Exhibit 31. Do you see Exhibit  
16 31 in front of you?

17 A. Yes, I do.

17:19:28 18 Q. And have you ever seen this document before?

19 A. Yes, I have.

20 Q. And this is a letter that A-Z received dated  
21 June 15th, 2018; is that right?

22 A. Yes, ma'am.

23 Q. This was signed by Brad Prendegrast at  
24 Imperial; is that right?

17:19:59 25 A. Yes, ma'am.

1 Q. And it says the balance due of \$1,368,925.67  
2 as of May 31st, 2018 is correct without the following  
3 exceptions." Did I read that correctly?

4 A. Yes, you did.

5 Q. And there are no exceptions written below,  
6 right?

7 A. There are no exceptions written below, no.

8 Q. And that's your signature at the bottom of  
9 this page, correct?

17:20:28 10 A. Yes.

11 Q. And by signing this you agreed that the  
12 balance owed as of May 31st, 2018 was \$1,368,925.67;  
13 is that right?

14 A. Well, not technically right. So the balance  
15 due on the invoices that they have totaled up to that,  
16 but that, again, wasn't reflective of any rebates,  
17 credits, damaged goods, returns, that sort of stuff,  
18 and the purpose of this was, this was actually an  
17:20:59 19 audit that their, I guess their accountant does or  
20 their financial -- their lender does and it's just to  
21 verify, hey, does this company owe this amount of  
22 money.

23 Q. You understand that by signing below you  
24 agreed that the balance due as to A-Z Dallas was  
25 \$1,368,925.67 as of May 31st, 2018, that's what this

1 page says, correct?

2 A. Yes, per the invoices and the credits that  
17:21:29 3 they already had on file because I've seen they've got  
4 some credits as well.

5 Q. That is language is not in this document  
6 though, correct \*\*\*CHECK?

7 A. It's actually in the attachment. There's  
8 already some credits in there.

9 Q. This does not say the balance due per  
10 invoices, correct, it says the balance due is  
11 1,368,925.67 as of May 31st, 2018 and you signed  
12 below, correct?

13 A. It is per invoices because if you go to the  
14 second page it's got the actual invoices there.

17:21:58 15 Q. I understand but that language is not in this  
16 sentence, correct?

17 A. That language is not in that sentence, no.

18 Q. If you can you turn to the third page, we'll  
19 see a similar letter with respect to A-Z as well; is  
20 that right?

21 A. Yes.

22 Q. And is it has the same statement below this  
23 time with respect to A-Z Waco that the balance due of  
17:22:23 24 1,038,500.42 as of May 31st, 2018 is correct. Did I  
25 read that correctly?

1 A. You did read that correctly.

2 Q. Is that your signature below?

3 A. It is.

4 Q. So as of May 31st, 2018, you agreed in August  
5 of 2018 that the balance as reflected on these  
6 documents were correct; is that right?

17:22:59 7 A. Per the invoices that are associated with the  
8 second page of each one of those letters and the  
9 credits that they had on file at that point, yes.

10 Q. In August of 2018, you agreed that the  
11 balance that A-Z owed as of May 31st, 2018 are the two  
12 amounts listed in Exhibit 31; is that right?

13 A. Based on the statement that's on the second  
14 page of the letter, yes.

17:23:34 15 Q. Does this?

16 A. And we were not contesting that those  
17 invoices and those amounts are correct. Those are the  
18 invoices and the amounts associated with those

17:23:46 19 particular invoices from Imperial to A-Z Wholesalers,  
20 Inc.

21 Q. ?

22 (Exhibit No. 33 marked.)

23 Q. (By Ms. Finger) I'm going to show you what's  
17:24:11 24 been marked as Exhibit 33. Let me know when you see  
25 it.

1 A. I see it.

2 Q. And this is one of the balance reports you  
3 mentioned that you would receive from time to time  
4 from Imperial, correct?

5 A. No. This is the spreadsheet that we would  
6 receive from Imperial. It's not the -- it's not the  
7 balance report that I was talking to earlier that I  
8 got by e-mail.

17:24:59 9 Q. Did the balance report look like the one we  
10 looked at before with the trial balance?

11 A. Nope. It looked more like the statement that  
12 was associated with the -- the letter for their  
13 auditors.

14 Q. These spreadsheets are what you would receive  
15 almost weekly, though?

16 A. Yeah, we would.

17 Q. In?

17:25:29 18 A. Yeah, we would receive this weekly and we  
19 would also receive the statement weekly as well.

20 Q. How did the statements that you're referring  
21 to differ from the spreadsheets that you would receive  
22 weekly?

23 A. The statements were more detailed, they  
24 referenced specific invoices that were still open and  
25 they gave us a total.

17:25:59 1 Q. Did those ever differ from the spreadsheet?

2 A. I don't know. I'd have to look but I'm sure  
3 they probably did because the spreadsheet, again, was  
4 kind of -- it was sloppy and it's the -- it's also  
5 what time was the spreadsheet done, did they count the  
6 Friday payment or the Monday payment, did they include  
7 the Monday's order or not. The statement itself is --  
8 is better because it's got the actual invoices

17:26:29 9 numbers, the amount for that invoice number and then  
10 it's got any credit memos that had already been  
11 processed for returned or damaged goods, so, yeah, and  
12 they differ because the statements state clearly  
13 Imperial, it has our account numbers, it's got a  
14 lot -- it's got a lot more information.

17:26:59 15 Q. How would you receive those, also via e-mail?

16 A. Yes, ma'am.

17 Q. From who?

18 A. It depends, but I think it was like in -- it  
19 was -- I don't know who -- I don't know who sent it.

20 I think maybe Sandy sent it in the beginning and then  
21 somebody by the name of Kay Kerr anticompetitive  
22 behavior sent it. I mean I still get those today,

23 Ms. Finger. I mean, I got one on Friday or Saturday

17:27:28 24 still showing what balance that Imperial shows that we  
25 owe them \*\*SPL\*\* Kay Kerr anticompetitive behavior

1   \*\*SPL\*\*.

2           Q.   Have you ever --

3           A.   But we don't get -- but we don't get any of  
4 those obviously from Harrison because we don't any of  
5 anything to Harrison.

6           Q.   Have you produced any of those you're  
7 referring to in this litigation?

8           A.   I believe one of those were produced or a  
9 couple were produced, but they come in every week.

10          Q.   Why not all of them?

11          A.   Be glad -- I don't think anything's changed  
17:27:57 12 on them though so the one that -- the one or two that  
13 are produced are going to look pretty much the same as  
14 the one I got this Saturday or Friday.

17:28:27 15          Q.   What does the most recent statement look like  
16 that you received?

17          A.   Hang on.

18          Q.   I can't -- Mr. Ali if you have something that  
19 you're going to look at to refresh your recollection,  
20 I'll need to have seen it at least now or beforehand,  
21 I don't know if you have the ability to do that so  
22 I'll ask that you answer my question based on your  
23 recollection before consulting?

24          A.   Okay, trying to help.

25          Q.   I understand.

17:28:59 1 A. It looks -- it looks very similar to the  
2 statement that was attached to the letter that  
3 verified whether or not these invoices were correct  
4 and that's the balance in the audit letter, so it's  
5 page 2 and page 4 of exhibit, whatever we had up just  
6 a second ago.

7 Q. 31, Exhibit 31, right, that was attached to  
8 the audit letter?

17:29:28 9 A. Yes so the statement that I receive weekly in  
10 Imperial, have for the longest time and still receive  
11 up until this day, which was produced at least one or  
12 twice in this lawsuit looked more like that.

13 Q. Is it possible, Mr. Ali, that Imperial acts  
14 on Harrison's behalf?

15 A. Imperial acts on Harrison's behalf?

16 Q. Correct.

17:30:01 17 A. Not when they deal -- not when they were  
18 dealing with us.

19 Q. How do you know that?

20 A. Because we were dealing Imperial and we were  
21 buying from Imperial, we were returning to Imperial,  
22 we were paying Imperial, we were doing business with  
23 Imperial, we were talking to Imperial, modifying our  
24 agreement with Imperial, extending or reducing our  
17:30:22 25 credit terms, so there's no way on earth 1 that



1 Imperial was acting for Harrison with us, and  
2 certainly not for the -- for the invoices that are  
3 potentially still open that we -- that we have  
4 problems with at this point.

5 Q. It's possible that Harrison and Imperial  
6 shared management though, right?

7 A. I think based on Wayne's letter back in 2014  
17:31:00 8 they did share management in the very beginning while  
9 they were still transitioning, but again, I think  
10 that's again the transitioning woes but there's no  
11 shared management as far as who we were dealing with.  
12 We were dealing with weighed Baugh can he tell \*\*SPL\*\*  
13 at Imperial, Brad Prendegrast at Imperial, Sandy at  
17:31:30 14 Imperial.

15 Q. But you have no personal knowledge a as to  
16 whether Brad, Wayne, sandy or any other Imperial  
17 representative that you were dealing with also worked  
18 for Harrison, do you?

19 A. I don't believe they ever worked for  
20 Harrison.

21 Q. We saw an e-mail earlier where Wayne had a  
22 signature block as the president from a Harrison  
23 e-mail address, didn't he?

24 A. Sure, he may have been an officer during the  
25 transition period when they acquired or were doing

17:31:59 1 whatever they were doing.

2 Q. You're speculating though, Mr. Ali, right,  
3 you don't have any personal knowledge for sure whether  
4 any of those individuals worked for or have ever  
5 worked for Harrison, do you?

6 A. I -- I am confident that from the time I met  
7 Wayne Baugh can he tell, Wayne held himself out to be  
8 the CEO of Imperial trading, that Brad Prendegrast  
9 held himself out to be the CEO of Imperial trading and  
17:32:27 10 that people we were doing business with come April  
11 2015 was Teel trading.

12 Q. You're the president of more than one of  
13 company Mr. Ali, aren't you?

14 A. I am.

15 Q. If you were doing business as the president  
16 of one company that you were no longer the president  
17 of another company?

18 A. Well, I mean, if -- am I getting paid at both  
19 companies?

20 Q. Sure.

21 A. I mean.

22 Q. Does that matter?

23 A. I'm sorry?

24 Q. Does that matter?

25 A. Well, I mean, no, I can be an officer in

1 multiple companies.

17:32:58

2 Q. So you have no personal knowledge as to  
3 whether Brad, Wayne and sandy, although they may have  
4 been working for Imperial were also employed by  
5 Harrison, do you?

6 MR. HOLMAN: Objection, asked and  
7 answered.

8 MS. FINGER: He has not responded to the  
9 question, Mr. Holman.

10 Q. (By Ms. Finger) Could you have any personal  
11 knowledge for sure as to whether Wayne, Brad and Sandy  
12 also work for Harrison?

13 MR. HOLMAN: Objection.

14 A. Based on my --

17:33:30

15 MR. HOLMAN: Pardon me, he's represented  
16 that those individuals held themselves out as Imperial  
17 representatives.

18 MS. FINGER: That's not what I asked.  
19 That's not what I asked.

20 Q. (By Ms. Finger) I asked whether yes or no if  
21 you have any personal knowledge of whether Sandy,  
22 Wayne and Brad also worked for Harrison?

23 A. I -- I don't have any personal knowledge that  
24 Brad Prendegrast ever worked for Harrison. Aside from  
25 that one e-mail that you showed me where Wayne sent

1 out an e-mail and said that he was the president and  
2 he was announcing that Imperial was taking over  
17:33:58 3 Harrison, where Wayne ever held himself out to be  
4 anything other than the CEO of Imperial trading.  
5 Sandy SARS lock never held himself out or herself out  
6 as as Harrison trading employee or representative.

7 MS. FINGER: Objection as nonresponsive.

8 Q. Mr. Ali, I did not ask how any of these  
9 individuals held themselves out to be. I asked  
10 whether you have any personal knowledge as to whether  
17:34:29 11 sandy, Wayne or Brad worked for or have ever worked  
12 for Harrison, yes or no?

13 A. Based on my personal knowledge and my  
14 personal experience with Wayne, Brad, sandy, they are  
15 employees or they [-RBGD] would for Imperial trading.

16 Q. So Wayne told you that he works for Imperial  
17 trading and he does not work for and has never worked  
18 for Harrison; is that true?

19 MR. HOLMAN: Objection, form.

20 A. Wayne told me that he was the CEO of Imperial  
17:34:59 21 trading from the first day that I met him.

22 Q. You told me earlier in your deposition today  
23 that you are the president of A-Z; is that right?

24 A. Yes.

25 Q. You also told me that you're the president of

1 another company; is that right?

2 A. Yes.

3 Q. If you were only to say that you were the  
4 president of A-Z, does that eliminate the fact that  
5 you're also the president of that other company?

6 A. Well, no, so here's where you're making your  
7 mistake, if you're going to do a hypothetical, let's  
17:35:27 8 do it the right way. I've got A-Z wholesale, I've got  
9 diamond wholesale and if I'm doing business with a  
10 customer, I'm either doing business with a customer as  
11 A-Z wholesale or I'm doing business with them as  
12 diamond wholesale.

13 Q. Correct?

14 A. I'm not doing business with that customer  
15 both, so if it was a diamond customer and then diamond  
16 merged into A-Z Waco, we started invoicing our  
17 customers in Austin with A-Z wholesale invoices,  
17:35:59 18 diamond went away, we got new Credit Applications with  
19 our customers that were formerly diamond's customers  
20 at A-Z Waco, that means I'm doing business with them  
21 as A-Z wholesale, not diamond wholesale.

22 MS. FINGER: Objection, nonresponsive.

23 A. So.

24 Q. Mr. Ali, I'm not asking what you're doing  
25 business as or how anybody is holding themselves out

17:36:28 1 as. I am asking whether Wayne, Brad and Sandy,  
2 although representatives of Imperial, could also have  
3 been employed by Harrison; is that possible or do you  
4 know for sure that it is not true?

17:36:40 5 A. I think anything is possible. I don't know  
6 what they were doing during their transition phase so  
7 it absolute -- absolutely, it's possible.

8 Q. Looking back At Exhibit 33 that we still have  
9 up, sandy sent this e-mail on March 15th, 2019; is  
10 that right?

11 A. Yeah.

12 Q. This was the last time that Imperial sent one  
13 of these spreadsheets to A-Z, isn't it?

17:37:29 14 A. I'd have to check. I don't know if there was  
15 another [SPA0ELT] that was sent after this \*\*SPL\*\*  
16 spreadsheet \*\*SPL\*\*.

17 Q. Sandy says in her e-mail that the balance  
18 increased to \$2,574,930.73; is that right?

19 A. That's correct.

20 Q. Did you ever contact anyone at Imperial or  
21 Harrison to dispute this balance that sandy sent on  
22 March 15th, 2019?

17:37:56 23 A. I don't know if I did or not because I think  
24 your firm was probably engaged soon after and they  
25 were represented by attorneys, it's probably not the

1 best thing to be talking to the client without your  
2 permission, so I don't know if I did or didn't. Also  
3 I know that I was traveling, I was overseas during  
4 this time period.

5 Q. You don't recall ever reaching out to sandy  
6 and asking why she sent you an incorrect balance, do  
7 you?

17:38:29 8 A. I don't recall reaching out to sandy around  
9 this time frame and talking about this balance, but  
10 I'm sure I've reached out to sandy or Wayne or Brad at  
11 other points to talk about the balance being  
12 incorrect.

13 Q. I'm talking about this balance specifically,  
14 you also did not respond to either Wayne or Brad  
15 asking why this balance is incorrect, did you?

16 A. Did they ask me if the balance was incorrect?

17:38:58 17 Q. I want to know if you ever disputed this  
18 balance to Wayne or Brad when you received this  
19 e-mail?

20 A. Rephrase your question because I'm a little  
21 confused. Again, just I just want to make sure.  
22 Aren't March 15th, 2019 I was overseas or I was -- I  
23 was on vacation so did I respond back to sandy saying  
24 this balance is incorrect at that time? I don't know,  
17:39:26 25 I'd have to go back and look. If you're asking me do

1 icon test that balance today that A-Z owes Imperial  
2 \$2.574930.37, so yes.

3 Q. Do you agree that that was the outstanding  
4 balance on March 15th, 2019?

5 A. No, I don't agree.

6 Q. Why?

7 A. Because it project does not include all the  
8 rebates, the credits, the offsets, the returned  
17:39:59 9 products, expired products, the discounts, that stuff.

10 Q. You said probably. How do you know that?

11 A. I'm sorry?

12 Q. You said probably does not include? How do  
13 you know whether or not it includes those?

14 A. Because the balance -- because the balance  
15 they sent every week doesn't -- didn't always include  
16 all that stuff.

17 Q. Have you done the accounting to figure out  
18 what the accurate balance was that was owed to  
19 Imperial before this lawsuit?

20 A. Did I do that before this lawsuit?

17:40:28 21 Q. The outstanding balance owed to Imperial,  
22 we'll say as of today, have you calculated that  
23 number?

24 A. I have not.

25 Q. So how do you know that this number is



1 incorrect?

2 A. Because I know because I was doing business  
3 with them and I know that that number is incorrect.

4 Q. How?

5 A. Well, [TPOER] several reasons: Number one,  
6 it doesn't include all of the offsets and credits and  
7 damaged products and expired products that we have  
8 that they're responsible for crediting us.

17:40:57 9 Q. But how do you know that how do you know that  
10 this number didn't include it?

11 A. Because they haven't picked up the product  
12 yet. It's still sitting in my warehouse in shrink  
13 wrap on pallets, you know, black shrink wrap and  
14 they're responsible for picking that up and that's  
15 hundreds of thousands of dollars of stuff not to  
16 mention the fact that they breached the contract and  
17 stopped shipping us that caused damage to our company,  
18 not to mention they didn't give me the discount per  
19 carton I was promised to get so if you take all of  
17:41:28 20 that, yeah, I do contest that amount with Imperial.

21 Q. How much do you claim A-Z is entitled to in  
22 offsets?

23 A. I don't know. I can't give you that number  
24 right now.

25 Q. You understand that that number should have

1 been already included in discovery responses as well  
2 as in your answer and should definitely be testified  
3 to at this time?

17:41:59 4 A. No, because Harrison is the plaintiff in this  
5 case and we -- I can tell you for sure Harrison is  
6 owed zero dollars. If Imperial was the plaintiff, I  
7 certainly believe we would have done the accounting by  
8 now and this case would have probably already settled  
9 a long time ago.

10 Q. What evidence do you have?

11 A. Because we.

12 A. We would have just sat down and done the  
13 accounting and talked to the principals over there and  
17:42:26 14 said hey, this is what we believe is owed by you guys,  
15 this is what we believe is owed by us, let's settle  
16 this thing and walk our separate ways.

17 Q. Objection, nonresponsive.

18 Q. Mr. Ali, what evidence do you have to support  
19 that this number calculated as of March 2019 is  
20 inaccurate?

21 MR. HOLMAN: Objection, asked and  
22 answered.

23 Q. (By Ms. Finger) I haven't asked that  
24 question yet, Mr. Holman. Mr. Ali what he would do  
25 you have in that you can present to me in this lawsuit

17:42:56 1 that this number is incorrect, evidence, not  
2 allegations that offsets have not been credited?

3 A. Because.

4 Q. What evidence do you have?

5 A. I've got pallets of product that is -- that  
6 Imperial has to take back.

7 Q. Why?

8 A. That's entire product.

9 Q. Why?

10 A. Because that was our agreement.

11 Q. Why when you make that agreement?

12 A. That was our agreement from the very  
13 beginning if we have any expired product, either  
14 snuff, cigarettes don't sell, they executed credit us  
15 back 100 percent, we bought \$50 million from of stuff  
17:43:29 16 from Imperial and \$50 million from Harrison after  
17 doing \$100 million of business they're going to give  
18 me credit for my 203 hundred thousand dollars stuff  
19 that's [EPBGS] [SPAOEURD], that's what they do, they  
20 get 100 percent credit back to the manufacturer. They  
21 go to Phillip Morris they say these are old  
22 cigarettes, that he them back, they get their  
23 assessing Rhett money back, Phillips Morris takes it  
17:43:54 24 back a and it's done so it doesn't cost A-Z or  
25 Imperial any money.

1 Q. What amount do you contend A-Z is owed in  
2 offsets \*\*\*CHECK?

3 A. I don't know that number because Imperial  
4 trading isn't the one suing me or A-Z.

5 Q. What amount do you contend A-Z is owed by  
6 Imperial for offsets?

7 A. I don't have that exact number.

8 Q. How much do you contend A-Z is owed in  
9 credits?

10 A. I don't have that exact number.

11 Q. What other credits are you referring to that  
12 A-Z is supposedly owed?  
17:44:28

13 A. Credits for.

14 MR. HOLMAN: Objection, form, asked and  
15 answered.

16 A. Credits for discount.

17 Q. I haven't asked my question yet, Mr. Holman.  
18 You can answer, Mr. Ali?

19 A. Credits for the expired products?

20 Q. How are those different from offsets?

21 A. Offsets are something that is like we get  
22 damaged goods right away, right so that should be  
23 offset off our invoice, that's are those smaller ones  
17:44:57 24 you see in the statement, 50 bucks here, the ten bucks  
25 here whatever that is, those are the smaller ones.

1 The credits are for expired goods and then the credits  
2 are also for the discounts on the price that Imperial  
3 was charging us that was a higher rate, right, which  
4 some people referred to as rebate, some people refer  
5 to as credit, but either way, it's -- if they're  
6 charging me 60 bucks but they should be charging my  
7 59.50, that credit is crucial, right, and I'm  
8 supposed to get that credit at some point you.

17:45:27 9 Q. You can't tell me any of the amounts you  
10 contend A-Z is owed in offsets or credits, can you?

11 A. Not sitting here right now, no.

12 Q. ?

13 (Exhibit No. 34 marked.)

14 Q. (By Ms. Finger) Let me show you what's been  
17:45:44 15 marked as Exhibit 34. I'll represent to you that this  
16 was a declaration of Sandy SAS lack filed in support  
17 of summary judgment briefing by Harrison. Do you see  
18 thisment do?

19 A. I do.

20 Q. Do you have any reason to believe that this  
21 is not a true and accurate copy of the document that  
22 Harrison filed with the court?

23 A. I have no reason to believe that that's not a  
24 true and accurate copy of what was filed with the  
17:46:30 25 court.

1 Q. If you could please turn to paragraph 6 on  
2 page 2?

3 A. Yep.

4 Q. Actually, we're going to skip ahead to?

17:46:58 5 A. We should talk about paragraph 6 because it's  
6 inaccurate but.

7 Q. How so?

8 A. Product Harrison sold and delivered to A-Z  
9 [WHAEURLS], Inc. are identified by customer number  
10 95750 and for those sold and delivered to Waco it's --  
11 it's Waco warehouse by can you say [TKPHER] number  
12 95751, those are not the customer numbers from  
13 Harrison.

14 Q. That's because you believe those are the  
17:47:28 15 customer numbers for Imperial; is that right?

16 A. It's not that I believe. Facts are a  
17 stubborn thing and the invoices are the best evidence.  
18 Pull up a Harrison invoice, pull up an Imperial  
19 invoice and you will see that there are two separate  
20 customer numbers for each respective warehouse;  
21 further, the reason why I agree -- disagree is because  
22 it says that product -- for products that were sold  
23 and delivered to its Waco wears house. Well, neither  
24 Harrison nor Imperial actually ever delivered anything  
17:47:57 25 to the Waco warehouse so that is also inaccurate. It

17:48:28

1 was all delivered to Dallas. The Harrison customer  
2 number, that Dallas had is 173501; the Harrison  
3 customer number that A-Z Waco had was 17502, the  
4 customer number that A-Z had with Imperial was 95750  
5 and the Waco warehouse with Imperial at 95751, so  
6 when Mr. -- so when when Sandy testifies in an  
7 affidavit that Harrison sold this product and  
8 delivered it by customer number 957350 that should say  
9 product sold by Imperial, not by Harrison.

10 Q. And your statement just now is based on the  
11 invoices you received, correct?

12 A. Oh, it's wasted on more than just invoices  
13 but the invoices are just the best evidence. You  
14 could throw those up and anybody could see that that's  
15 completely false.

17:48:57

16 Q. Mr. Ali, you never worked for Harrison, did  
17 you?

18 A. No.

19 Q. How long did you work for Harrison's  
20 accounting department?

21 A. I never worked for Harrison's accounting  
22 department.

23 Q. If you can turn to Exhibit D of this exhibit,  
24 of this exhibit, please, so Exhibit D of Sandy's  
25 declaration which is on [PHAEUPBLG] the label page is

17:49:28 1 11 and the exhibit page is the first page?

2 A. I am there.

3 Q. Have you reviewed this document before?

4 A. The only time I've looked at this document  
5 from what I recall was just a few days ago or couple  
6 days ago when my father was being deposed.

7 Q. Okay. You'll see at the top?

8 A. [STPOP]. You can ask me questions about this  
9 all day long. This is an in-house made spreadsheet.  
10 It's not a report and so when it says warehouse, they  
11 could write Bossier City, they could write Imperial  
17:49:58 12 Bossier City, they could write [HARS].

13 Q. Mr. Ali, I have not asked a question,  
14 objection, nonresponsive, there's no question pending?

15 Q. Mr. Ali, ?

16 A. Get it I get it it's getting late in the day.

17 Q. I understand if you want to wrap this up  
18 quickly, Mr. Ali if you want to wrap this up quickly,  
19 I need you to answer my questions and not to testify  
20 to a Monday log that is nonresponsive to any question  
21 I have pending?

22 A. Absolutely.

23 Q. At trial, your lawyer can ask you whatever  
17:50:29 24 questions you want so you can give whatever testimony  
25 you want but right now it's my turn to ask the



1 questions I need to answers to, okay?

2 A. I get it on-I'm sure you have lots of  
3 questions about this document because it's very  
4 unusual \*\*\*CHECK all that \*\*\*CHECK.

5 Q. As you stayed, this is an internal document  
6 produced by Harrison or Imperial; is that correct?

7 A. Yeah this is -- I wouldn't -- I wouldn't even  
17:50:58 8 classify it as an internal document 138 scratch the  
9 yes \*\*SPL\*\* I would classify this as a document to  
10 prepared to fit the conclusion that they're looking  
11 for in this case.

12 Q. Is it your allegation that this document was  
13 fabricated, Mr. Ali?

14 A. I would probably argue it is because I  
15 guaranty you the other thousands of customers that  
16 they have, they don't have warehouse Harrison written  
17 in there.

18 Q. What is the basis for your allegation that  
19 this document is in any way inaccurate or a  
20 misrepresentation of any amounts owed, all of the  
17:51:29 21 other evidence with us doing business with with  
22 Imperial like even on the -- even on the Imperial  
23 invoices, right, on the Imperial invoices, it doesn't  
24 say warehouse Harrison?

25 Q. Why C are you only focusing on the wears

17:51:57

1 house Mr. Ali other than the definition of the  
2 warehouse, what is your factual basis for your  
3 allegation that somebody at Harrison or Imperial  
4 fabricated this document to be inaccurate? What  
5 actual evidence do you have of that he's?

6 A. Based on what I'm looking at, this is  
7 completely made up. This is just -- they made -- they  
8 made this up because you've got a customer number  
9 that's an Imperial customer number and then you write  
10 down warehouse Harrison so the judge is like oh, it  
11 says Harrison and like they're going to fall for that.  
12 I mean, this is -- this is fraud.

13 Q. Mr. Ali, Harrison?

14 A. This is fraud.

15 Q. Where is Harrison located?

16 A. Harrison is not located anywhere.

17:52:29

17 Q. Where was Harrison's distribution center  
18 located?

19 A. I believe one of their distribution centers  
20 was located in Bossier City that I went and visited in  
21 2011 and 2012.

22 Q. And you understand that Imperial was also  
23 shipping product from a distribution center in Bossier  
24 City, Louisiana?

25 A. Imperial was shipping product from a Bossier

1 City.

17:52:57 2 Q. You understand that that's actually reflected  
3 on the invoices you received from Imperial, don't you?

4 A. After Harrison went away, yes, that was  
5 Imperial, that's what I'm saying. This -- this should  
6 say Bossier, if you want this to be accurate, it  
7 should say Bossier City, it shouldn't say Harrison.

8 Q. Let's pretend, let's pretend this says  
9 Bossier City instead of Harrison. Do you have any  
10 reason to contest that the amounts listed in this  
11 document are fabricated as you've accused?

12 A. I didn't say the amounts were fabricated.

17:53:27 13 Q. Well, let's focus on that. If your issue is  
14 with Harrison listed as the I warehouse, that's  
15 irrelevant to my question. The amounts?

16 A. .

17 Q. Mr. Althat the amounts are accurate?

18 A. \*\*\*CHECK.

19 A. I can't testify to that right now because I  
20 need--in need to see the invoice numbers. You see how  
21 there's no invoice numbers, if there's a reference  
22 number I have to look at all that, so I -- this  
23 spreadsheet doesn't help me or the court or anybody,  
24 all it does is service your client's interests in  
25 trying to show that Harrison owed the money when

17:54:00 1 Harrison is owed nothing.

2 Q. [PHR\*L]?

3 A. Zero dollars are owed to Harrison.

4 Q. We are talking about the dollar amounts  
5 calculated here, whether or not you contest that  
6 amount is owed to Harrison or Imperial is not my  
7 question. My question is this dollar?

8 A. I answered your question.

9 Q. Mr. Ali, let me finish. The dollar amount,  
10 whether you contests owed to Harrison or Imperial is  
11 what we are focusing on right now. What is your basis  
12 to say that the amounts listed in this spreadsheet

17:54:30 13 generated by Harrison's accounting system are  
14 inaccurate? What evidence do you have of that?

15 A. I can't tell you because I don't know what  
16 those amounts are for. I'd have to look at the  
17 invoices myself, compare them to the actual invoices,  
18 which is the best evidence, not some spreadsheet that  
19 someone punched the data into.

20 Q. You haven't calculated the amount, have you?

21 A. No, I told you earlier, I have not calculated  
17:54:57 22 the amount. I get -- I get a statement, right, and I  
23 haven't calculated the offsets, the rebates, the  
24 credits any of that sort of stuff, not to mention the  
25 damages that we've -- we've incurred as of.

1 Q. I'm not talking about your damages, Mr. Ali.  
2 Let's look at the top of this document. It's dated  
3 June 1st, 2018. Do you see that in the center of the  
4 first line?

5 A. No, I don't see that.

17:55:28

6 Q. The very top line of the first page of  
7 exhibit D, it says month, day, century and year and  
8 it's dated June 1st, 2018. Do you agree with that?

9 A. No, I don't.

17:56:00

10 Q. What are you looking at? We're on page 12 of  
11 this exhibit which is page 1 of Exhibit D to Exhibit  
12 34. We're still looking at the same spreadsheet and  
13 in the center it says month, day, century and year,  
14 and beneath it says 6-1-20 and 18. Do you see that?

15 A. I see that.

16 Q. Do you understand that that means the month  
17 is 6, which is June, the day is one, which is the 1st,  
18 the century is 20, meaning the 2000s and the year is  
19 18, meaning June 1st, 2018. Do you understand that?

20 A. I understand that that's what this  
21 spreadsheet says.

17:56:28

22 Q. That's what I asked. That's what it says,  
23 correct?

24 A. That's what this spreadsheet says.

25 Q. And that's the date immediately after May

1 31st, 2018, which is the date you signed the audit  
2 letter agreeing to the balance at that time, correct?

3 A. Again, that's not what I testified to. I  
4 agree -- I agreed that those invoices were accurate  
5 and if you total up those invoices and you total up  
6 the credits on those invoices that they were showing  
7 in that statement, that that total is accurate.

17:56:59 8 Q. You didn't do that and total up those amounts  
9 before you signed the document that said you agreed to  
10 the balance?

11 A. I didn't have to because it was on the  
12 statement.

13 Q. So you just signed the letter and agreed to  
14 the outstanding balance as of May 31st, 2018; isn't  
15 that right?

16 A. No. What we do is we go back and make sure  
17 that those invoices are the actual invoices.

18 Q. And you did that, right?

19 A. Yeah, we checked actual every invoice and  
20 say, okay, did we get this invoice, yes, did we get  
17:57:27 21 this invoice, yes, yes yes yes, are these the credits  
22 that have already been processed, yes yes yes, does  
23 that end up being the total amount that's according to  
24 this statement, yes, that's what I'm signing off on.

25 Q. So in that date when you signed off on the

17:57:54

1 balance that you reviewed the invoices for and  
2 confirmed with accuracy, this spreadsheet now goes  
3 from the next day, June 2018 all the way through to  
4 April 1st, 2019, and as you're scrolling through to  
5 confirm my dates, I'll ask that you look in the column  
6 on the right-hand side and see that generally  
7 speaking, this spreadsheet incorporates payments,  
8 sales invoices, credit memos, nonsufficient fund  
9 checks, et cetera. Do you see all that?

10 A. I see all that.

11 Q. Do you have any reason to dispute the line  
12 items that are included in this spreadsheet?

13 A. Yes.

14 Q. Why?

17:58:29

15 A. Because these are -- these are not reflective  
16 of all the credits and offsets.

17 Q. How do you know that those aren't in here?

18 A. Because I'm still sitting on a hundred or  
19 \$200,000 worth of product that still needs to be  
20 credited.

21 Q. And you don't see any of that in here and you  
22 claim that you're entitled to it?

23 A. No, I'm still sitting on it. The only stuff  
24 that's reflected in here is the ones that they  
25 physically picked up.

1 Q. But you can't tell me approximately how much  
2 that offset would change these numbers, can you?

17:58:58 3 A. I can tell you it would probably be a couple  
4 hundred thousand dollars just the expired goods.

5 Q. , And that's not including the rebates and  
6 the discounts, I mean?

7 Q. In your?

8 Q. In your counterclaims?

17:59:28 9 A. Ma'am, hang on. Can you tell me what exhibit  
10 this is again?

11 Q. 34?

12 A. Plaintiff's 34?

13 Q. Correct.

14 A. Okay. Thanks.

15 Q. In A-Z's answer and counterclaims filed in  
16 this case, to the extent there are any, how much do  
17 you claim A-Z is owed in offsets?

17:59:58 18 A. [-FLTS] against Harrison, zero. Harrison  
19 doesn't owe us any credits, offsets, anything.  
20 Imperial does.

21 Q. So you any amount of the amount Harrison  
22 claims other than to say it's not owed to Harrison,  
23 only to Imperial in your pleadings; is that true  
24 \*\*\*CHECK?

25 A. We don't have any counterclaims against



1 Harrison because we don't owe Harrison any money in  
2 counterclaims. We don't owe them and they don't owe  
3 us. Harrison doesn't owe us anything, we don't owe  
18:00:27 4 Harrison anything. Like Harrison and A-Z are zero  
5 zero. It's Imperial and A-Z. Imperial owes us money  
6 and we potentially owe them money but if you count the  
18:00:40 7 damages, I don't know where we go.

8 Q. If a jury disagrees with you, Mr. Ali, and  
9 finds that the balance is owed to Harrison, what  
10 amount do you claim is owed?

11 MR. HOLMAN: Objection, calls for a  
12 hypothetical.

18:01:29 13 Q. (By Ms. Finger) You can answer, Mr. Ali.

14 A. Zero dollars.

15 Q. How so?

16 A. Because we don't owe Harrison any money.

17 Q. If a jury disagrees with you and finds that  
18 the outstanding balance that A-Z was left with as of  
19 March 2019 or later and finds that the balance was  
20 owed to Harrison, what dollar amount do you contest  
21 A-Z owes?

18:01:58 22 A. To Harrison? The entire amount.

23 Q. Which would be what?

24 A. Whatever the jury found was owed by A-Z to  
25 Harrison. I would -- with all due respect to the

1 jury, I have to say that the jury verdict is  
2 completely wrong because A-Z Wholesalers, Inc. and  
3 I'll die -- I'll go to my grave knowing this, ing  
4 doesn't owe Harrison a penny, and Harrison doesn't owe  
18:02:30 5 A-Z wholesale a penny. The fight, the dispute is  
6 between Imperial and A-Z wholesale.

7 Q. And how much does A-Z owe Imperial?

8 A. I can't tell you sitting here right now what  
9 that amount is.

10 Q. Can you guess?

11 A. No, I don't want to guess.

12 MR. HOLMAN: Objection, asked and  
13 answered about 20 different ways. We need to move on.

14 MS. FINGER: Mr. Holman, respectfully, I  
15 would ask you to keep your objections according to the  
18:02:58 16 rules and Mr. Ali, I will ask you how much you contend  
17 A-Z owes to Imperial.

18 A. I can't give you that amount.

19 Q. Is it more than \$1 million?

20 A. I can't answer that and I wouldn't try to  
21 answer that until we calculate all the offsets,  
22 credits, expired goods, send it all back, get all that  
23 stuff done and then the damages that A-Z [WHAEURLS]  
24 has incurred as a result of Imperial's breach of  
18:03:29 25 contract with A-Z Wholesalers which is substantial.

1 Q. And the only reason you haven't tried to  
2 calculate that amount is because you think Imperial  
3 should be a party to this lawsuit; is that right?

4 MR. HOLMAN: Objection, form.

5 Q. (By Ms. Finger) You can answer?

6 A. Imperial -- Imperial should be the only  
7 plaintiff in this case.

8 Q. And because they're not a plaintiff, is that  
9 why you haven't made any effort to calculate the  
10 amount that A-Z is owed or that Imperial is owed?

18:04:00 11 A. It's not that I haven't made any effort, it's  
12 that hasn't been something that we've been asked to  
13 do.

14 Q. Who would ask you to do that?

15 A. The plaintiff in this case and the plaintiff  
16 is Imperial.

17 Q. You don't have any internal accounting at A-Z  
18 that reflects how much you owe to another company?

19 A. I'm fairly certain that we could very quickly  
20 put together a spreadsheet that would account for all  
18:04:26 21 the payment, credits, offsets, rebates, discounts, and  
22 then I could give you a ballpark number on the damages  
23 that we've incurred as a result of Imperial's breach  
18:04:37 24 of contract with A-Z Wholesalers, Inc.

25 Q. You haven't produced any documents in this

1 case that reflect any calculation by A-Z of the  
2 amounts owed, right?

3 A. I don't know if I have or have not. If it  
4 wasn't a production request which it couldn't have  
5 been because Imperial hasn't asked for any but I can  
6 tell you with Harrison, since they're the plaintiff,  
7 it's zero, doesn't take much to calculate that. It's  
8 zero dollars.

9 MS. FINGER: Objection, nonresponsive.

18:05:29

10 Q. (By Ms. Finger) Have you produced any  
11 document in this litigation that reflects an  
12 accounting of the amount that A-Z owes to Harrison or  
13 Imperial?

14 A. Yes. Well, to Harrison, yes, it's zero.

15 Q. What document have you produced that shows  
16 that?

17 A. I mean, just the -- just the payment  
18 documents that you have up here show that. I don't  
19 know -- I don't know exactly what we've produced. I  
20 think we've produced all our checks and everything  
21 that we made, payments that we've made, those show  
22 that.

18:05:59

23 Q. It's your position that the spreadsheet in  
24 front of you reflects that A-Z doesn't owe Harrison  
25 anything even though it reflects an outstanding

1 balance?

2 A. Okay. So the spreadsheet in front of me  
3 definitely says that I don't owe Harrison anything  
4 because this is not a Harrison spreadsheet. This is  
5 Imperial. This money is owed to Imperial is what this  
6 spreadsheet says. I don't I don't agree with that  
7 amount but that's Imperial spreadsheet, not a Harrison  
8 spreadsheet. The Harrison spreadsheet should say zero  
18:06:27 9 because Harrison was paid off in 2015 around June or  
10 July, whatever that \$2.1 million balance was that was  
11 started on March 2015 was paid off seven or eight  
12 weeks later. But it doesn't take a spreadsheet to  
13 figure that one out, it's zero dollars.

14 Q. I'm going to show you what's been marked as  
18:07:05 15 Exhibit 38: Can you confirm that this is a copy of  
16 the defendants first amended answer to plaintiff's  
17 original complaint filed in this case?

18 A. Yeah it looks like a file marked copy so I'm  
19 assuming this is defendants answer.

18:07:28 20 Q. If you can turn to page 4, I want to look at  
21 paragraph 27 that runs into page 5?

22 A. Okay.

23 Q. And on page 5, this paragraph states Harrison  
24 was not a party to any transaction involving any of  
25 the claims it has asserted." Did I read that

1 correctly?

2 A. Yes, you did.

3 Q. Do you understand Harrison is filing for

18:07:59 4 breach of the credit agreement between Harrison and

5 A-Z, correct?

6 A. No, I don't agree with that.

7 Q. What is your personal knowledge of Harrison's

8 theory of this case? Do you represent Harrison,

9 Mr. Ali?

10 A. No, I don't.

11 Q. Do you work for Harrison, Mr. Ali?

12 A. No, ma'am.

13 Q. Do you agree that Harrison is a party to the

18:08:28 14 credit agreement dated March 11th, 2011?

15 A. Yes.

16 Q. I want to go down now to paragraph 32. It  
17 says plaintiff's claims are barred in whole or in part  
18 due to a cord and satisfaction because the parties  
19 modified their payment terms as to arrearages and  
20 defendant A-Z was performing in satisfaction of the  
21 modified terms" do you see that?

22 A. I do.

18:09:02 23 Q. Who were the parties that the defendants

24 refer to in this sentence?

25 A. Of the I don't know but I'm assuming it would

1 be plaintiff and defendant.

18:09:27

2 Q. When did Harrison and A-Z modify their  
3 payment terms as to arrearages?

4 A. At several points during the four-year  
5 relationship that we had with Harrison beginning in  
6 March of 2011 to March of 2015.

7 Q. How many times were those payment terms  
8 modified?

9 A. I don't know.

10 Q. How were they modified?

18:10:02

11 A. Same way that we've modified other terms of  
12 our agreement through conversation, through e-mails,  
13 through other means of communication and  
14 correspondence, through our actions.

15 Q. Mr. Ali, as a lawyer, isn't it your  
16 understanding that best practice would be to put any  
17 agreement into writing?

18:10:29

18 A. Not really when you're -- not, I mean, in  
19 this situation, that's not a best practice.

20 Q. You're a lawyer though, right?

21 A. Yeah, sure, but it's not a best practice  
22 because every time, I mean, every time -- every time a  
23 price changes, we don't put it in writing and say,  
24 hey, this is going to be the price change, we're going  
25 to buy for this much, we're going to do that, I this

18:10:59

1 is a relationship and so it's like any other  
2 relationship where, you know, if I tell my wife, hey,  
3 we're going to go have Chinese food for dinner and I  
4 say we're going to change Chicago in Richardson, I  
5 don't put that in writing with my wife.

6 Q. That is not hundreds of thousands of dollars'  
7 worth of an agreement, right?

18:11:29

8 A. No, we're talking millions of dollars and  
9 that's why the relationship here was like a marriage,  
10 right? It was such a close relationship that we could  
11 pick up the phone and say hey I need 20 [KREPBS] off  
12 [PHARL] borrows for the next six weeks because I'm  
13 going to be selling it in my marketing flier for 20  
14 cents less so I need you to pick up a little bit of  
15 that action so I can sell more volume which helps  
16 their business because then they get more rebate money  
17 so that's the kind of relationship it is, right? So  
18 that might be done by phone, that might be done by  
19 text message, it might be done by e-mail, it may be  
20 done and then later I'm like oops I forgot to call  
21 Harrison or Imperial whoever we were dealing with at  
22 the time when we wanted the discount, so I for got to  
18:11:59 23 tell them we wanted that much discount and I go look  
24 at the cartons we want that Monday and they give me  
25 the credit for that, that's the kind of relationship



1 that we had.

2 Q. Why then were you going to put the promissory  
3 note in writing that we looked at in Exhibit 10?

4 A. Which promissory note.

5 Q. There was only one promissory note that we  
6 reviewed, it was Exhibit 10 to your deposition. Why  
7 were you going to put that in writing if not any of  
8 the other modifications?

9 A. Because that was a specific dollar amount  
10 that they wanted a promissory note for and our  
18:12:29 11 intention was to get that paid within a certain amount  
12 of time, and so we documented that one because it was  
13 a promissory note, right? You couldn't have a  
14 promissory note without it being in writing \*\*\*CHECK  
15 last page check heck.

16 Q. I apologize I misspoke as to the exhibit  
17 number?

18 A. I know which one you're talking about, the P  
19 note.

20 Q. Right, the promissory note we reviewed  
21 earlier.

22 A. Yeah. January 11th, 2019.

18:12:59 23 Q. Right, to clarify, that was Exhibit 11, not  
24 Exhibit 10.

25 A. So, yeah, there were some -- there were some

1 agreements that were not modified orally, many of  
2 them -- many of the agreements were modified orally,  
3 one particular one like the promissory note was done  
4 in writing.

5 Q. Now that I've mentioned it, I want to show  
18:13:27 6 you Exhibit 10, which is dated September 10th, 2018.  
7 Have you seen this document before?

8 A. I may have.

9 Q. And you'll see that the subject line here  
10 says debt restructuring term sheet; is that right?

11 A. That's what this said but it was never signed  
18:13:57 12 by Barkat Ali, by Amar Ali, by A-Z [WHAEURLS], Inc. or  
13 diamond wholesale.

14 Q. Why not?

15 A. Because it wasn't agreed and accepted.

16 Q. Why was this agreement going to be put into  
17 writing even though it wasn't standard practice?

18 A. Because this actually has significant terms  
19 and changes to our relationship that wasn't agreeable.  
20 It's talking about fully executed financial statements  
21 for each guarantors, it's talking about guarantors,  
18:14:29 22 there weren't any guarantors so we weren't agreeable  
23 to that.

24 Q. What other terms would you have requested be  
25 in writing with any given modification to your

1 agreement with Harrison or Imperial?

2 A. I mean, I think personal guaranties would  
3 have been in writing, I think, you know, like the  
18:14:57 4 promissory note, \$250,000, that would have been in  
5 writing, you know, significant changes to the -- to  
6 the relationship would be in writing.

7 Q. If a personal guaranty was required to be in  
8 writing, wouldn't you require the release of that  
9 personal guaranty to be in writing?

10 A. You don't need a release of a personal  
11 guaranty when there's no amount owed.

18:15:28 12 Q. What about formation of a credit agreement,  
13 you wouldn't put that in writing?

14 A. Do what.

15 Q. With what about termination of a credit  
16 agreement, you wouldn't put that in writing?

17 A. No \*\*SPL\*\* I'm going to slap this chick in a  
18 minute \*\*SPL\*\*.

19 Q. I want to go back to Exhibit 38 that we were  
20 looking at. Let's take a look at paragraph 33 on page  
18:15:59 21 5. Let me know when you're there?

22 A. Hang on. I'm just making a quick note for  
23 myself.

24 MR. HOLMAN: Repeat the page number.

25 MS. FINGER: Page 5, paragraph 33.

1 MR. HOLMAN: Can we get a time check.

2 THE VIDEOGRAPHER: I can give you a rough  
3 estimate, if that's fair.

4 MR. HOLMAN: That's fine.

5 MS. FINGER: Okay.

6 THE VIDEOGRAPHER: I show approximately  
18:16:29 7 15 minutes remaining before we hit that 7 hours mark.

8 MR. HOLMAN: Okay.

9 MS. FINGER: Perfect, thank you.

10 A. Where do you want me to go.

11 Q. Paragraph 33 on page 5, Mr. Ali?

12 A. Paragraph 33 on page 5.

18:16:58 13 Q. Are you there?

14 A. Almost. I soon passed it, sorry.

15 Q. Do you see it now?

16 A. I'm there.

17 Q. It says plaintiff's original complaint is  
18 barred in whole or in part by the doctrine of unclean  
19 hands because plaintiff failed to fulfill their own  
20 side of the modified agreement and thus breached and  
18:17:29 21 therefore excused defendants are from  
22 performance." Did I read that correctly?

23 A. Sorry, I was on the wrong one so I can't tell  
24 you, hang on. You said page 5.

25 Q. Page 5, paragraph 33. I'm sorry, it's page 5

1 of the document, yeah, it's the same, the last  
2 paragraph on page 5.

3 A. Yes. Let's try that again.

4 Q. It says plaintiff's original complaint is  
5 barred, in whole or in part, by the doctrine of  
18:17:59 6 unclean hands because plaintiff failed to fulfill  
7 their own side of the modified agreement and thus  
8 breached and therefore excused defendants from  
9 performance." Did I read that correctly?

10 A. Yes, you read that correctly.

11 Q. The plaintiff in this lawsuit is Harrison,  
12 correct?

13 A. That is correct.

14 Q. And what obligation under the agreement with  
15 A-Z did Harrison fail to fulfill?

18:18:26 16 A. If Harrison is suing us for an amount that's  
17 owed, that's not owed, ing that's certainly a failure  
18 on their side.

19 Q. That's not what I asked, Mr. Ali.

20 Is it a term of Harrison's contract with  
21 A-Z that they cannot file lawsuits for any particular  
22 subject matter?

23 A. I mean they can file privilege us lawsuits if  
24 they want to.

25 Q. Sure. So this says plaintiff failed to

1 fulfill their own side of the modified agreement.

18:18:59 2 What obligation did Harrison fail to fulfill with A-Z  
3 by the terms of their agreement \*\*\*CHECK frivolous,  
4 not sure he said that \*\*\*CHECK?

5 A. They failed to, I mean, I think they -- they  
6 failed to release Barkat of his personal guaranty  
7 after all payments owed to Harrison were paid off in  
18:19:26 8 2015 in the summer of 2015. They failed to release A-Z  
9 wholesale of the amount owed after all payments were  
10 made, so I mean, those are two failures that I can  
11 think of right now, but again, I'd have to sit down  
12 with my lawyers to figure out exactly what specific  
13 acts were being alleged here that aren't named here  
14 specifically that fit this description.

15 Q. By failing to release Barkat and A-Z, you  
18:19:56 16 just mean that Harrison filed a lawsuit against them,  
17 don't you?

18 A. No. If Harrison's contending that we still  
19 owe them money, then it's not just about filing a  
20 lawsuit.

21 Q. It's your allegation that seeking payment  
22 from Barkat and A-Z under the credit agreement is a  
23 breach of the agreement by Harrison; is that right?

24 A. Sure, because the money -- there's no money  
25 owed.

18:20:29

1 Q. Is there any other obligation you can think  
2 of that you contend Harrison failed to fulfill under  
3 its agreement with A-Z?

4 A. I mean, I can't think of anything right now,  
5 but it's getting late in the day and I know these are  
6 affirmative defenses. I do [-PBL] the court's asked  
7 us to specify these affirmative defenses by Monday.

8 Q. You intend to produce evidence in response to  
9 that court order, corrects?

18:20:58

10 A. Yeah, I think that's due on Monday, so I'm  
11 sure the lawyers will be working over the weekend,  
12 right, Mr. Holloway man to make sure that's get  
13 submitted on time.

14 Q. If we can turn to paragraph 34 on the next  
15 page?

16 A. Yep, I see it.

18:21:29

17 Q. It says plaintiff's original complaint is  
18 barred in whole or in part by the doctrine of  
19 unconscionability given the parties had agreed to new  
20 terms which have not been breached. Who are the  
21 parties that you're referring to in paragraph 34?

22 MR. HOLMAN: Objection, the court has  
23 asked us to brief these and the answer is more  
24 extensive that what the -- the deponent can even  
25 respond to at this time. It requires a briefing that

1 the court has specifically requested.

2 MS. FINGER: Mr. Holman, I will ask that  
3 you keep your objections to the rules and although the  
4 court has ordered defendants to respond to its order,  
5 I am still entitled to ask the witness about the  
6 discovery. I'm sorry, about the pleading that was  
7 filed in this case.

8 My question does not require an extensive  
9 answer. I'm asking at the time that this answer was  
10 filed, who are the parties referred to in this  
11 answer.

12 MR. HOLMAN: Plaintiff will not know  
13 because it hasn't been briefed.

14 MS. FINGER: Mr. Holman, I will ask the  
15 witness to please answer my question.

16 A. Yeah, so I'm going to, look, it's getting  
17 late, I know everybody's tired, you're an hour ahead  
18 of us he so you're probably a little more tired than  
19 we are, but, again, I don't know exactly. I can't  
20 remember the last time I really thought through the  
21 doctrine of unconscionability but I'm sure we can have  
22 the elements for that doctrine and what acts are  
23 related to that, and we can specify in our response  
24 who we mean by parties.

25 Q. And so in your response to the court order



18:22:57 1 that you'll file on Monday, you'll clarify [KWHO] the  
2 parties are that are referred to in each of these  
3 affirmative defenses; is that right?

4 A. If that's something that the lawyers feel is  
5 appropriate, then certainly and if not, then you  
6 should file a Motion to Compel to figure out who the  
7 parties are that we're referencing.

8 Q. I don't need to file a Motion to Compel  
9 because I'm entitled to this deposition and only right  
10 here, and at the time this was filed you reviewed this  
11 before it was filed, didn't you?

12 A. I may have. I don't -- I don't recall  
13 necessarily.

18:23:29 14 Q. And you -- you can't tell me even from the  
15 context of reading this sentence here who the parties  
16 are relevant to this lawsuit that agreed to new terms  
17 which have not been breached, you can't tell me which  
18 parties you're referring to in that paragraph?

19 A. Well, .

20 MR. HOLMAN: Counsel, objection, the  
21 deponent did not draft the answer and so it  
22 encompasses both Imperial being imputed where Harrison  
23 could be imputed to have standing through Imperial and  
18:23:58 24 so it references actually both parties but that will  
25 be briefed to the court. The deponent [K-FRPBT]

1 answer that question, that technicality.

2 A. I really can't Ms. Finger, you know, I've  
3 tried to cooperate with you. If I could answer that  
4 question right now, I would give you a straight answer  
5 and tell you like it is. What I can.

6 Q. Mr. Ali?

7 A. What I can tell you right now that the only  
8 word that sticks out to me is unconscionable and  
18:24:28 9 what's unconscionable to me right now is Harrison sued  
10 A-Z wholesale.

11 Q. Mr. Ali?

12 A. For money that's not owed.

13 Q. Objection?

14 A. All right, so.

15 Q. Objection, nonresponsive. We're running out  
16 of time and I will ask that you ask my question so I  
17 don't have to file a motion with the court requesting  
18 more time to get answers to my questions.

19 Paragraph 34 states the parties agreed to  
20 new terms which have not been breached. Although your  
21 lawyer may have drafted this document, you had to give  
22 your lawyer the underlying facts in order to assert  
18:25:00 23 these defenses, isn't that true?

24 A. Sure, but my lawyers had those underlying  
25 facts since we first engaged with them right.

1 Q. So?

2 A. If they -- if they felt like this is an  
3 affirmative defense that they can legitimately argue  
4 in front of the court, they put that affirmative  
5 defense in there, we'll certainly know on Monday  
6 whether or not they have the facts and the evidence to  
7 maybe -- for this affirmative defense to hold water.  
8 The now do I --

9 Q. Mr. Ali?

18:25:28 10 A. Hang on. I want to answer your question.

11 Q. You're not answering my question?

12 A. I cannot answer your question at this time  
13 because I don't know the doctrine of  
14 unconscionability.

15 Q. I didn't ask -- Mr. Ali I did not ask about  
16 the doctrine of unconscionability, I'm asking about  
17 the factual statement that says the parties agreed to  
18 new terms which have not been breached.

19 What facts did you give your lawyer under  
20 which parties agreed to new terms question have not  
18:25:58 21 been breached? Who are the parties that you told your  
22 lawyer entered those -- that agreement with new  
23 terms?

24 A. Well, so, there's parties, so there could be  
25 A-Z [WHAETURLS], Inc., there could be Harrison Company,

18:26:29

1 there could be Imperial, there could be Barkat Ali, I  
2 mean, there's -- you could have certain parties, if  
3 that's what it said. Specifically as to the doctrine  
4 of unconscionability, which parties are being  
5 referenced, I'm not really sure, but I can tell you  
6 it's certainly unconscionable what Harrison is doing  
7 by suing in this lawsuit as far as I'm concerned.

8 Q. Mr. Ali, are objection, nonresponsive?

9 A. Imperial is also being unconscionable if  
10 they're trying to use Harrison to keep that -- that  
11 personal guaranty in place and that's the reason why  
12 Harrison is suing is because there's a personal  
13 guaranty with Harrison but there's knee money owed  
14 with Harrison.

15 Q. Objection, nonresponsive.

18:26:56

16 Q. (By Ms. Finger) Mr. Ali?

17 A. Mr. Did a personal guaranty because we  
18 refused to give a personal guaranty to Imperial, they  
19 tried several times including the last document that  
20 you drew up there which.

21 Q. Mr. Ali?

22 A. And we refused to do that, and so the end  
23 around -- the end around is hey let's just use  
24 Harrison and say this is Harrison's debt but it's not.  
25 We all know that, you even know that, you're a good

1 lawyer, you get it.

18:27:27

2 Q. Mr. Ali, objection, nonresponsive. The court  
3 reporter cannot take down what we're all saying when  
4 we talk over each other. I will ask that you keep  
5 your testimony in response to my question so that I do  
6 not have to file a motion with this court requesting  
7 more time to further this deposition to remedy the  
8 obstruction that you're causing to my deposition.

9 A. I -- look, I'm.

10 Q. I have not asked a question.

18:27:58

11 A. I know but I'm just saying you can't say, you  
12 can't go to the court be and be like I'm obstruct  
13 being I'm answering all your questions throughout the  
14 seven hours.

15 Q. Mr. Ali, nonresponsive and I have not gotten  
16 my full seven hours because I cannot get answers to my  
17 questions this way?

18 A. In the last 15 minutes I disagreed with your  
19 question over here because I can't tell you who the  
20 parties are and I don't know the doctrine of uncon  
21 Shenabilities by heart but by Monday we'll all have  
22 the answers so let's wait by Monday.

23 Q. I understand you intend to file a motion,  
24 file your response with the court on Monday. Sitting  
25 here today in your affirmative defenses you cannot

1 tell me who the parties are that you are referring to  
18:28:29 2 to in each of these; is that true?

3 A. I can't answer that question right now,  
4 that's correct.

5 Q. That's correct?

6 MS. FINGER: Let's go off the record  
7 right now. Wayne, I don't know if I have any time  
8 left but to the extent I do, let me just make sure I  
9 don't have anything else to throw on the record to the  
10 extent I can before we wrap up. The.

11 THE VIDEOGRAPHER: Sure, Mr. Holman you  
12 agree.

13 MR. HOLMAN: I do agree, I have a brief  
14 redirect.

15 THE VIDEOGRAPHER: Do you agree to go off  
16 the record.

18:28:59 17 MR. HOLMAN: Yes.

18 THE VIDEOGRAPHER: Off the record at 6:28  
19 p.m.

18:29:04 20 (Recess 6:28-6:39.)

21 THE VIDEOGRAPHER: Back on the record;  
22 the time is 6:39 p.m.

23 MS. FINGER: I will pass the witness.

24 A. I know I'm still under oath.

25 MR. HOLMAN: I'm sorry, Anna, did you

1 pass.

18:39:29

2 MS. FINGER: Yes, sir.

3 MR. HOLMAN: Okay. Thank you.

4 EXAMINATION

5 BY MR. \*:

6 MR. HOLMAN:

7 Q. Mr. Ali, you were asked earlier about your  
8 understanding of Harrison's theory of the case, do you  
9 recall that?

10 A. Yes.

18:39:58

11 Q. And it was brought up that there were two  
12 cause of actions of one for breach of contract and the  
13 other one you as suit on guaranty against Ali, do you  
14 recall that \*\*\*CHECK?

15 A. Yes.

16 Q. I want to represent, this is the actual  
17 language from the complaint filed where it says that  
18 the credit agreement is a valid and enforceable  
19 contract. Harrison has performed all conditions  
20 precedent, covenants and promises required of it  
21 pursuant to the credit agreement. Then it goes on to  
22 state in paragraph 18 that A-Z breached a credit  
23 agreement by failing to pay the amounts due and owing.  
24 Is it your understanding that when we mentioned that  
25 there was no invoices that were due, that there was no

1 breach of contract, that those relate to the actual  
2 invoices that they are referencing in paragraph 18?

18:40:59 3 MS. FINGER: Objection, form.

4 A. That is.

5 Q. Would you agree that when it says A-Z  
6 breached the credit agreement by failing to pay the  
7 amounts due and owing, if any, what amounts would be  
8 due and owing?

9 A. Zero dollars.

10 Q. And if there were any, they would be  
11 represented by invoices; is that correct?

12 MS. FINGER: Objection, form.

13 A. That is correct.

18:41:31 14 Q. All right. Let's go on to and Anna, I'm  
15 going to ask your help with this, this was in you  
16 pulled up RFA number 3? I don't have the exhibit  
17 number but it was the response to RFA number 3?

18:42:00 18 MS. FINGER: Exhibit 6.

19 A. Hey can you guys hang on I think I just got a  
20 family emergency I got a text message from my cousin  
21 and it said 911, we have to stop for a second, please.

22 MR. HOLMAN: Okay.

23 THE VIDEOGRAPHER: Off the record; the  
18:42:16 24 time is approximately 6:42 p.m. 6:44.

18:44:57 25 (Recess 6:42-6:44.)



1 THE VIDEOGRAPHER: Back on the record;  
2 the time is 6:45 p.m.

3 Q. (By STPHAO) Mr. Ali, we have pulled up what  
4 was Plaintiff's Exhibit Number 6. This was your RFA  
5 response to question number 3, and there was some  
6 discussion regarding the second sentence where it says  
7 that deny that any of the products forge the basis of  
18:45:28 8 Harrison's lawsuit were ordered from Harrison, and  
9 then you went on to say it was contested that there  
10 were no products that are being sued on, but is it  
11 your understanding that there are certain invoices  
12 that would relate back to any products that would have  
13 been sold by Harrison or Imperial; is that correct?

14 MS. FINGER: Objection, leading.

15 A. .

16 Q. (By STPHAO) Let me restate.

18:45:59 17 Where it says here products, are there  
18 any associated invoices that if there were products,  
19 there would be invoices associated with that?

20 MS. FINGER: Objection, form.

21 Q. (By STPHAO) You can answer?

22 A. Yes, there would be invoices.

23 Q. Is it your understanding that there are no  
24 Harrison invoices for the relevant period that are the  
25 basis of this suit?

18:46:26 1 A. That's correct.

2 Q. Okay?

3 MR. HOLMAN: Anna can you pull up your  
4 Exhibit 14, I believe that was the affidavit of  
5 Mr. Ali.

6 A. He's putting you to work, huh, Ms. Finger.

7 Q. (By STPHAO) Thank you. And let's go down to  
8 paragraph 3.

9 A. Yes.

10 Q. And you previously testified that that was a  
18:46:59 11 typo where it says September 1, 2008?

12 A. That's correct.

13 MS. FINGER: Objection.

14 Q. (By STPHAO) ; Is that correct?

15 A. That's correct.

16 MS. FINGER: Objection, mischaracterizes  
17 prior testimony.

18 Q. (By STPHAO) Okay. Mr. Ali, does September  
19 1, 2018 have any relevance to you?

20 A. No.

21 Q. Does September 1, 2014 have any relevance?

22 A. Yes.

18:47:30 23 Q. And what would that date be?

24 A. That date would be the date that Imperial  
25 acquired Harrison.

1 A. Okay.

2 Q. Thank you.

3 MR. HOLMAN: Anna, can you bring up  
18:47:49 4 your -- I have the Bates number, it's Harrison 005748.

5 MS. FINGER: It's plaintiff's Exhibit 18.

6 MR. HOLMAN: I believe there was a  
18:48:30 7 subsequent attachment.

8 MS. FINGER: Not to this exhibit.

9 MR. HOLMAN: Just one second. Here we  
10 go. I see it.

11 Q. (By STPHAO) If you look down at the one,  
12 two, three, four, five, six, the sixth paragraph where  
13 it says I think, do you see that?

14 A. Yes.

15 Q. Can you read that sentence?

16 A. It says I think this system will help the  
18:49:00 17 accounting method A-Z needs per Barkat and will  
18 suffice the needs of Imperial to continue supplying  
19 our customer.

20 Q. And so from that who -- from your perspective  
21 who was supplying you?

22 A. Imperial.

23 Q. Okay?

18:49:27 24 MR. HOLMAN: Can you bring up Exhibit 31,  
25 please?

1 Q. (By STPHAO) This was the audit letter and  
2 whose letterhead is the audit letter on?

3 A. Imperial.

4 Q. And who signed the audit letter?

18:49:59 5 A. Brad pen at that grass as -- for -- on behalf  
6 of Imperial trading company, LLC.

7 Q. So when you signed that, was it your  
8 understanding that you were acknowledging invoices  
9 owed to Imperial?

10 A. Yes.

11 Q. At that time when you acknowledged the -- the  
18:50:27 12 audit letter, had you contemplated any offsets,  
18:50:32 13 setoffs, rebates, is that included in that figure?

14 A. No.

15 Q. Mr. Ali, your prior testimony was that also  
16 that none of the modifications were in writing; is  
17 that correct, [-RG] that many of the modifications  
18 were not in writing?

19 A. That's correct, but what I -- what I meant  
20 with that and I'm glad you bring that up and I think  
18:51:29 21 Ms. Finger and I talked about that early in my  
22 deposition, when she was stating writing -- I was  
23 trying to clarify if it was writing and executed,  
24 right, where it was actually physically signed or in  
25 writing, i.e., like an e-mail or some other

1 correspondence.

2 Q. So are you aware of any e-mails that would  
3 constitute a writing that would form the basis of a  
4 modification that had been discussed?

18:52:00 5 A. Sure, there's several of those.

6 Q. Okay. So when we say modification by a  
7 writing, it not only references promissory notes that  
8 have an execution but also e-mail and text message  
9 correspondence; is that correct?

10 A. That's correct.

11 MS. FINGER: Objection, form.

12 A. That's correct.

13 MR. HOLMAN: I'll pass \*\*SPL\*\* 6:52 p.m.

14 (6:52 p.m.)

15 EXAMINATION

16 BY MR. \*:

18:52:31 17 MS. FINGER: I just want to take one more  
18 look, Mr. Ali, at your declaration which was Exhibit  
19 14, again we're talking about paragraph 3 on page 2.  
20 Do you see that.

21 A. Yes, ma'am.

22 Q. And is it your testimony that this first  
18:52:55 23 sentence should say on September 1st, 2014 instead of  
24 2018?

25 A. Yes.

1 Q. In September 2014, A-Z was still receiving  
2 invoices from Harrison; is that right?

3 A. Yes.

18:53:30

4 Q. A-Z was also still placing orders with  
5 Harrison at that time, right?

6 A. Yes you just.

7 Q. You just testified in response to Mr. Holman  
8 oops questioning there are e-mails and text messages  
9 that comprise an agreement between A-Z and Imperial;  
10 is that right \*\*\*CHECK?

18:53:59

11 A. That's not exactly what I testified to.

12 Q. Can you clarify?

13 A. I said that there would be e-mails and text  
14 messages, other correspondence that's in writing that  
15 would make up, you know, a modification of our  
16 agreement.

18:54:26

17 Q. If you had to tell a stranger what your  
18 agreement was with Imperial, how would you do that?

19 A. With Imperial?

20 Q. Yes.

18:54:54

21 A. I would say that our agreement with Imperial  
22 was that we continue to buy product from them, they  
23 continue to ship product to us, they continue to  
24 accept all returns, expired goods, give us credits and  
25 offsets. We continue to pay and reduce our overall

1 balance with Imperial, no personal guaranties, either  
2 from Barkat or from amiles an hour as long as they  
3 continue to ship and we continue to pay \*\*SPL\*\*, the  
4 relationship would continue and that we would to be  
18:55:29 5 good, strong partners. That's sort of the -- that's  
6 sort of the summary after seven hours of doing this.  
7 I'm sure I could be more succinct when I'm bright I'd  
8 and bushy tailed in the morning.

9 Q. What documents would you show \*\*SPL\*\* eyed  
10 \*\*SPL\*\*, just for a description of A-Z's agreement  
11 with Imperial?

12 A. I would probably show e-mails, text messages,  
18:55:56 13 the invoices from Imperial, the statements that we  
14 received on a weekly basis, not that spreadsheet, but  
15 the actual statements from Imperial, other  
16 correspondence, and then I would probably also show  
17 other documents that were not executed intentionally  
18 like that agreement that Mr. Bar can he tell said in  
18:56:25 19 September of 2018 that we refused to sign or a credit  
20 agreement that Imperial tried to get us to sign that  
21 we refused to sign \*\*SPL\*\* Baugh can he tell \*\*SPL\*\*.

22 Q. So just to describe the terms that govern the  
23 relationship between A-Z and Imperial, how many  
24 documents would you show?

25 A. I mean, it depends on how many invoices we

1 have because each one of those is a contract in my  
2 opinion because we're -- we're buying and they  
3 deliver, then we pay, but there would be other  
18:57:00 4 documents and again, it's a very good question. I  
5 would probably need to give it some more thought and  
6 get my head around it and jot down all the points of  
7 what I believe the agreement was with Imperial, but  
8 those are just some of the highlights.

9 Q. You didn't prepare any of that in preparation  
10 for your deposition testimony today on the topics that  
11 were listed in your Notice of Deposition as the  
12 corporate representative; is that right?

18:57:28 13 A. Did I prepare any what?

14 Q. Did you pull together any of these e-mails or  
15 text messages or other written documents that you just  
16 said you would show to prove the agreement between A-Z  
17 and Imperial?

18 MR. HOLMAN: Objection, they've been  
19 produced.

20 MS. FINGER: That's not what my question  
21 was.

22 A. Yeah, did I. -- did I revisit the items  
23 that are produced and kind of put them together in a  
24 succinct and chronological manner to potentially  
18:57:56 25 respond to a question that may come up in seven hours



1 with all the production, no. I did, you know, I did,  
2 like I said, I made some preparation, I did a little  
3 bit of preparation. I know the case well enough to  
4 where I felt I could accurately respond but, you know,  
5 in any -- in any context, there were some questions  
6 that you raised that I would like to revisit and look  
7 at and make sure that I've got a very succinct answer  
8 so that we could get beyond that and narrow the issues  
18:58:27 9 for trial even better.

10 Q. (By Ms. Finger) When will you get these  
11 succinct answers?

12 A. Certainly before trial.

13 Q. You understand that the purpose of this  
14 deposition is so that we don't have any surprises at  
15 trial as to the questions that I'm asking, right?

18:59:00 16 A. I mean, I don't think there's going to be any  
17 surprises from our side. We produced everything we  
18 could possibly produce. I think -- I think you have a  
19 very clear understanding of what our legal position  
20 is, I've tried to make it clear.

21 MS. FINGER: Objection, nonresponsive.

22 Q. (By Ms. Finger) You haven't told me though  
23 which e-mails and exhibits you contest comprise the  
24 agreement between A-Z and Imperial, right? You can't  
18:59:29 25 connect them for me sitting here today, can you?

1           A. I can't tell you that right now. I can tell  
2 you what, I mean, I can -- I can tell you that my  
3 focus obviously in preparation for this deposition is  
4 to -- to look at Harrison and so I spent a little more  
5 time with Harrison than I did with Imperial since  
6 Harrison is the plaintiff in this case.

18:59:59 7           Q. You also haven't pointed me today to any  
8 document, e-mail or text that shows in writing how any  
9 terms were modified or terminated with Harrison; is  
10 that true?

11           A. I have not pointed you to any specific  
12 e-mails but you have all my e-mails that I was able to  
13 produce and I am confident that those e-mails are  
14 reflective of the written modifications or some of the  
19:00:27 15 written modifications in relation to the plaintiff or  
16 in relation to Imperial for that matter.

17           Q. At trial, do you plan to connect those dots  
18 and testify as to which e-mails and texts comprise any  
19 modification to the agreement between A-Z and  
20 Harrison?

21           A. I anticipate I will be more prepared for  
22 trial than I was for the deposition, and since you've  
23 asked me these questions, I actually kind of took some  
24 notes so my job would be to specifically look into  
19:00:59 25 those and get more succinct answers that I think a

1 jury or a judge, fact finder could understand.

2 MS. FINGER: I have no further questions.

3 (7:01 p.m.) \*\*SPL\*\* 7:01 p.m.)

4 MS. FINGER: Mr. Holman are we good to go  
5 off the record.

19:01:28 6 A. We're good to go.

7 THE VIDEOGRAPHER: Counsel pursuant to  
8 the federal rules are there any other agreements  
9 pertaining to the exhibits transcript and other  
10 pertinent matters.

11 MS. FINGER: Also while we're on the  
12 record, I would like to request that any notes that  
13 Mr. Ali has taken during this deposition be produced  
14 in this litigation.

15 MR. HOLMAN: We would object.

16 MS. FINGER: On what grounds.

17 MR. HOLMAN: They're his private notes.  
18 We haven't had a chance to review it, potentially  
19:01:59 19 there might be some privileged note taking. It's his  
20 personal recollection -- his personal notes, it might  
21 be privileged.

22 MS. FINGER: Were any of the notes  
23 derived from communications with his attorney.

24 MR. HOLMAN: Maybe, I don't know, I  
25 haven't been able to review his notes.

19:02:27

1 MS. FINGER: Let me clarify that we are  
2 asking for unprivileged notes that Mr. Ali has taken  
3 during his deposition which he just mentioned in  
4 response to his last question that relate to succinct  
5 answers he will be able to provide in response to the  
6 questions that I ask today that he could not answer.

7 MR. HOLMAN: We'll take that under  
8 advisement.

9 THE VIDEOGRAPHER: This marks the  
10 conclusion of the videoconference deposition. We're  
11 going off the record at 7:02 p.m.

19:03:22

12 (Deposition concluded at 7:02 p.m.)  
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